



REPUBLIC OF MACEDONIA
O M B U D S M A N

ANNUAL REPORT 2011

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Introduction

The democratic profile of a society is not valued exclusively on the normatively guaranteed rights and freedoms of its citizens. On the contrary, the norm itself cannot secure the realization of those rights and freedoms since the existence and effective functioning of the mechanisms for protection of citizens' freedoms and rights are the essential segment in the society.

Hence, it has been demonstrated that the existence of the Ombudsman institution in our society, to a high extent is the factor which secures the necessary balance between the state on the one hand, and the citizens on the other. However, in a situation when a permanent tendency of increase of complaints is noticed, the inevitable question for the reasons for this situation is posed.

Thus, it would be subjective and unilateral if the above is explained only through the conclusion that citizens request protection of their rights more frequently only because they are aware of those rights or that the institution is more and more visible in the society. That is only one aspect providing an answer to the reasons for the situation. The other one should be searched in the quality of functioning of state organs and all those intended to provide service for the citizens and make decisions on their rights. This aspect, in a situation when we witness phenomena in our society representing a serious threat to human rights on a daily basis, should not come to a surprise.

On the other hand, there is the question of the level to which those deciding on citizens' rights and freedoms demonstrate awareness of the imperfections argued by the Ombudsman and act in accordance with the indications. The argument that the Ombudsmen institutions in the world are able to perform their functions successfully only in an environment of democracy and rule of law is not given provisionally.

Although our institution can be proud of the number of successfully closed cases, the inert attitude by the relevant organs is evident, with regards to the findings on general conditions in the society, which is actually the basis for violation of human rights and freedoms. Consequently, through the prism of our findings on the level of respect, realization and protection of human rights and freedoms and hence the response by the state to the indicated conditions, the overall picture on the level of democracy in our society may be formed.

Besides the fact that there is a big progress in the manner of accepting the recommendations by our institution, still what is needed is a demonstration of willingness for solving problems related to events which create divisions, legal uncertainty and selectivity in deciding. Nevertheless, in the time we live in challenges are not an exception, they are everyday events and what is of essential importance is how much our response can contribute to suspending the situations causing violation of human rights.



Ixhet Memeti

A handwritten signature in blue ink, appearing to be 'Ixhet Memeti'.

IN 2011



Besides the Ombudsman's persistence, the European prison regulations are still not implemented in the penitentiary legislation

The Republic of Macedonia has not managed to upgrade the system for serving prison sentence by implementing the European prison rules. By that, the aim of the sentence cannot be achieved and unfortunately, the prison in certain cases is only a place creating returners.

After five years of interventions by the Ombudsman, personal contact between a child and the parent was established

Although the father was not deprived from the parental right nor were there any reasons for temporary limitations of his right to maintain personal relations and contacts with the child who was under the mother's custody, the decisions by the Center on maintaining contact were not put in practice for five years. Finding violation of the child's rights, as well as the father's rights, in the previous five years the Ombudsman addressed the Center to take all possible measures in order to ensure realization of regular personal contacts between the father and the son. Taking into consideration that the problem was not overcome, the Ombudsman requested from the Department for Social Activities to perform professional insight over the Center's work. Following the insight, the indications by the Department and the Ombudsman's interventions, the Center issued a decision for direct personal contact between the child and the father and after continuous monitoring and work with the family, the contacts between the father and the child began to take place.

Penitentiary – correctional center Idrizovo remains an open wound in the penitentiary system in the Republic of Macedonia

Accommodation conditions, treatment and security, especially in the closed wing at the Penitentiary – corrective center Idrizovo remain under the minimum penitentiary standards. Although improvements in all aspects have been declared for years, the results still lack.

It is not only the mother who should be allowed to accompany a child during hospital stay

The Ombudsman self-initiated a procedure after ascertaining that the new Regulation Book on content and manner of realization of rights and duties in the compulsory health insurance, the right to accompany a child until the age of three, staying at a medical institution was only allowed for the mother, and not for the father or another family member, which was not in accordance with the provisions of the Law on Health Insurance.

Considering the best interest of the child, and upon the Ombudsman's recommendation, the Administrative Board of the Health Insurance Fund of Macedonia amended and changed the above stated book of regulations, allowing for both parents to accompany a child staying at a medical institution, or in justified cases another family member.

Roma families at the homeless camp left without adequate health protection, and the children out of the educational system

In order to ascertain the condition of the persons sheltered at the Homeless Camp in Ljubanci, the Ombudsman self-initiated a procedure and during the insight found that health protection was not provided and that children were not included in the educational system. In order to overcome the situation, the Ombudsman addressed the Ministry of Labor and Social Policy and the Ministry of Education and Science, requesting taking precise measures regarding the health condition of the above stated persons and providing adequate health care and medications, measures for including the children in the educational system, as well as adequate social and legal assistance in settling issues for obtaining personal documents.

Following the Ombudsman's indication, the competent ministries confirmed the need for improving the conditions for social, medical and other types of protection for this group of socially deprived persons, after which at a session of the Government of the Republic of Macedonia it was decided for activities to be initiated for establishing a separate homeless center under direct control of the Public Institution Inter-municipal Center for Social Work of the city of Skopje, where service would be realized more efficiently and more economically and adequate social support would be provided, as well as for overcoming the problem by including the children in the educational system.

Unauthorized use of electricity – problem for the citizens

The rights of conscientious consumers are violated by irregular and not quality delivery of electricity, due to inadequate legislation. The Ombudsman recommended upgrade of the legislation and taking measures by all competent institutions within the frames of their authorization in order effective protection of consumers' rights to be achieved.

Children addicts to narcotics do not have a possibility to be treated and healed in an adequate health institution

Due to the growing incidence of the problem with children addicted to narcotics, the Ombudsman, once again requested a more serious approach towards this problem by the competent bodies which are obligated to take all available measures for adequate treatment, healing, assistance and protection of children addicted to narcotics, including establishing special medical institutions and centers.

After the indication, the Ministry of Labor and Social Policy defined the priority, i.e. opening a daily center for children abusing drugs and other psychotropic substances. On the other hand, the Ministry of Health confirmed that the abuse of narcotic substances in children – high school students in Macedonia - has an increasing trend, as well as the number of underage children diagnosed with addiction to opiates. Simultaneously, this Ministry emphasized that they would work intensively on creating conditions and possibilities for treatment of these children and accented that there was a need for adequate institutions with separate space and personnel resources, as well as prescribed protocols for treatment, healing and rehabilitation of these children addicted to narcotics.

A special school subject on human freedoms and rights and mechanisms of prevention at national and international level should be introduced

In direction of improvement and development of the education and the civil awareness, acquainting the legal system and order, as well as the instruments and mechanisms for protection of rights, the Ombudsman argued to the need for introducing a separate school subject on human freedoms and rights and protection mechanisms on national and international level in every stage and degree of the educational system. That would allow for direct influence on the work of national and international institutions in order not to act upon a large number of cases without grounds for initiating adequate procedures for protection of rights or for the ones they have the competence to act towards.

The above was requested by the Ombudsman from the Government of the Republic of Macedonia, the Ministry of Education and Science and the Beraux for Development and Promotion of Education. The proposal was accepted by the National Commission for Protection of Children's Rights.



Access to justice remains hard to realize

Although material and process legislation guarantee access to justice, citizens still face long and exhausting judicial procedures. Instead of investing in improvement of conditions, the judicial budget is spent on penalties for violation of right to judging in a reasonable period of time.

Schools are still not safe

Taking into account the occurrences of violence, conflicts and physical fights among children at schools, as well as the fact that there are no norms regulating these events and every school decides on the manner of ensuring security prerequisites at schools by themselves, and the cost is covered by the parents, the Ombudsman requested from the Government and the Ministry of Education and Science to establish a systematic and normative solution to the problem of security at schools.

According to the Ministry of Education and Science, by application of the existing legal provisions on counseling parents in cases when a student is not disciplined, participates in fights or other forms of violence and demonstrates asocial and antisocial behavior, these problems will be overcome and the discipline will be improved. Also, by engaging police officials responsible to intervene in any kind of problem or violent behavior, the monitoring aspect at schools has been fortified. However, the measures taken do not represent a systematic and normative solution to the problem because violence among children reoccurs.

What is needed is active participation by all subjects, including the family for being the basic environment for developing the child's personality and creation of prerequisites for developing positive personality of children who will respect the society values, as well as the teachers who should direct the children through the educational process towards tolerance, respect to diversities, humanity, equality and friendship.

Public Revenues Office charges tax for the maternity leave financial compensation

The fact that the financial compensation on the basis of leave for medical reasons, being exclusively a fault of the system institutions (the Health Insurance Fund of the Republic of Macedonia) was paid late, did not present an obstacle for the Public Revenues Office to address illegal decisions for personal income tax to its users, most often mothers.

The Public Revenues Office did not act in accordance with the Ombudsman's intervention for taking activities and measures for solving this particular case ex officio and in the manner in favor of this category of citizens. As a result, a special report was addressed to the Minister of Finances, who found that the Public Revenues Office needed to correct the issued decisions, in accordance with the Law on Tax Procedure and the Law on General Administrative Procedure.

Second-instance commissions annulled, the cases remain open, and the citizens are deprived from the right to access justice

For the sake of completing the reform process in the manner of deciding in administrative procedures in second instance in certain areas, the Law on Establishing a State Commission for deciding in administrative procedure and procedure on working relations in second instance was adopted, which entered into force on 21.04.2011. In accordance with this law, the initiated procedures and the procedures to be initiated before these commissions of the Government of the Republic of Macedonia until the initiation of application of this law were to be finished by the commissions in a period of six months since the day of this law entering into force.

All second instance commissions, although in the meantime formally stopped working, did not fulfill the legal responsibility to close all cases, thus at the moment there is a legal vacuum, the major consequences of which are borne by the citizens because they cannot obtain information where certain cases are, along with their acts and who, meaning when a decision on their appeals will be issued. The Ombudsman recommends to the Government to find an adequate solution for overcoming the situation.



During the election process no activities are taken upon citizens' requests in administrative procedure for privatization of construction land

During the period from issuing the Decision on organizing elections until the end of the elections of Members of Parliament of the Republic of Macedonia, the State Commission for Prevention of Corruption, by an act - opinion requested from the Management for Property-Legal Issues – Skopje not to act upon requests for privatization of construction land owned by the state. At the same time, the Commission, during the allowed time period, did not clarify what basis of the Law on Prevention of Corruption was referred to when issuing the particular opinion and whether they had taken into consideration the implications this manner of acting could have towards realization of constitutional and legal rights of the citizens, the rule of law and the legal state, which implies a discontinuation, meaning suspension of the procedure and whether it derived from the aim and the essence of the Law on Prevention of Corruption.

Namely, even after the election process had finished, the Commission informed that the particular opinion was issued on the basis of paragraph 3 article 11 of the Law on Prevention of Corruption, which, among other issues, states that state property must not be sold during an election process. Hence, the Parliament of the Republic of Macedonia needs to interpret whether the contents of paragraph 3 article 11 of the Law on Prevention of Corruption indicates the possibility for the State Commission to request suspension of certain administrative procedures as well.

“Macedonia” Square a witness of a tragic event

The “Macedonia” Square was the place where a young life was taken, and a police officer was accused for this act. A case which, once again questions the level of professional police behavior.

Illegal acts for local self-government employees withdrawn

After the Ombudsman had ascertained violation of rights to working relations – discrimination on political basis - indicated to the Mayor of the Municipality to withdraw all issued acts and activities taken. However, no action was taken.

The Ombudsman informed the Labor Inspection through a special report, requesting inspection monitoring and annulment of all illegal decisions. Following the monitoring inspection, the Labor inspection issued a decision annulling all acts the Ombudsman referred to.

Certain citizens pay the street lightning fee manifold

According to the Law on Communal Fees, for every measuring device registered for consumption of electricity, communal fee for public lightning should be paid, as a result of which in objects with several measuring devices, the citizens pay for this fee several times. This problem is especially visible in collective accommodation objects where the community tenant members not only pay this fee for their individual measuring devices for their households, but they also pay for every registered measuring device for mutual consumption of electricity in the accommodation building.

By this citizens are unequally treated in comparison with other citizens who use the street lights under the same conditions. In order for the problem to be overcome, the Ombudsman supplied information to the Government of the Republic of Macedonia requesting changes and amendments of the Law on Communal Fees, so that equal treatment will be provided for all citizens.

Non-installation of individual measuring devices for heating, the latest increase of the price and the insufficient heating contribute to unreal and too high bills

The introduction of the new manner of calculating the consumption of heating energy without individual measuring devices for each user and the new increase of the price for heating led to unreal calculation of the heating consumption. This is especially expressed at collective accommodation buildings where the heating energy is measured by one measuring device for all residents. Due to the increased price, the number of citizens who disconnect from the heating system increases as well, and another part of them install new heating devices which are not registered, so the distribution of heating energy for every consumer is not real, meaning the users do not pay the real price for the quantity they have consumed. In order for this problem to be solved, the Ombudsman submitted special information to the Government, the Regulatory Commission for Energetics, the Ministry of Economy and AD "Toplifkacija", indicating that besides the non-installation of individual measuring devices for every consumer, the laws and by-laws are an additional reason for the stated problems.



Volunteers engaged to work against legal provisions

A group of citizens from Bitola complained that although they were engaged as volunteers at the Clinic Hospital in Bitola, they perform duties like the rest of the employees, and do not enjoy the rights from a working relation. After conducting an insight at the hospital it was found that this practice has been exercised by the hospital for years, engaging volunteers to perform duties of doctors, instrument technicians, obstetricians and nurses. They volunteered alone in night shifts, duty shifts and holidays, without being accompanied by employed medical personnel, and their duty hours were registered under names of employed medical personnel which would reimburse the night work compensation to the volunteers depending on their good will.

Taking into consideration the undisputable violation of the Law and the rights of the volunteers, the Ombudsman submitted an indication to the hospital management for signing employment contracts with these persons. The indication was accepted only in a declarative manner and with an explanation that it could not be executed due to lack of consent for financial means. As a result, the volunteers initiated court procedures for protection of their rights from a working relation.



Legalization of illegal constructions regulated by law, still not sufficient for dealing with the urban planning chaos

Passing the Law on Taking Activities for illegally build constructions will definitely contribute to overcoming certain conditions in the area of urban living and to solving issues of property-legal character for the citizens.

However, in case during organization and planning of the space the public interest is neglected for the benefit of the commercial one, we will continue talking about urban planning chaos, inhumane living conditions and unhealthy environment.

Polluted environment media – a permanent attack over citizens' health

Protection of citizens' health is of primary interest for the citizens, and it should be provided by the state and the local self-government units.

Commercial interest of legal subjects, low ecology awareness of the citizens, and mostly the inert attitude and inefficiency by the competent institutions are the major reasons forcing the citizens to live in an unhealthy environment endangering their health and lives.

THE INQUIRY ON THE CHILDREN IN THE STREETS BY THE OMBUDSMAN DEMONSTRATED THE FOLLOWING:

Children in the streets are exploited to labor and their fundamental human freedoms and rights are violated

Data indicated that the problem with children in the streets is increasingly present. This is a worrying fact. Almost 95% of registered children in the streets are members of the Roma community. The majority of these children have parents, and are still forced and sometimes abused in order to spend the day in the streets. Children in the streets are mainly not included in the educational system (only 17% of registered children in the streets attend classes). The majority of them have not been registered in the book keeping records of born children, which disables them to realize the fundamental freedoms and rights. A portion of these children (8.5%) have been registered as persons having committed punitive actions.

This problem was a topic at the Annual Conference of the Ombudsman for Children of South East Europe (CRONSEE) organized by the Ombudsman of Macedonia, and financially supported by Save the Children Norway and the Government of Norway. The Conference produced several conclusions and recommendations for overcoming the problem which are published in a compilation of the Conference presentations.

PUBLIC RELATIONS AND INTERNATIONAL ACTIVITY



The presence of the Ombudsman in the public this year was a result of its regular activities upon a certain problem citizens face, as well as certain serious events linked with human rights and freedoms which were the occasion for his addressing the public. Hence, if we take into consideration the multi-annual commitment for a realistic and objective exposure of attitudes towards the conditions, then it is clear that during this year attitudes and opinions were exposed to the public only on the basis of a completely ascertained state of facts.

Occurrences which were points of concern for the Ombudsman and the ones he regularly expressed his opinion on, accentuated his contribution to the balancing of certain conditions which were potentially tensional. However, the fact that the Ombudsman's addresses to the public are always an occasion for promoting citizens' rights and informing them on the manner they should act in order to realize them, as well as the manner in which they can protect them, should not be omitted. Addressing the public was certainly aimed at emphasizing the need for taking measures and activities by the bodies and institutions relevant for a certain case as well.

Other activities of great importance for the institution's transparency were the ones taken within the frames of projects support-



ed by the Swedish International Development Agency (SIDA), the OSCE Mission, CRONSEE, as well as the twinning project initiated at the beginning of the year, among the Ombudsman of Macedonia, the Ombudsman of Spain and the Protector of Citizen's Rights in the Republic of France as partners.

Namely, within the frames of the project supported by SIDA and OSCE, the Ombudsman continued the theater performance "Same in a different way", as well as organizing round tables on central and local level on the competences of the new departments of the Ombudsman for prevention of torture, discrimination protection and monitoring the respect of the adequate and equitable representation principle, as well as the Department for protection of children's rights and the rights of persons with special needs. For that aim, a study visit was organized for the National preventive mechanism team, as well as lectures and trainings



for strengthening their knowledge and skills in performing prevention in all freedom depriving institutions.

Taking into consideration that almost all Ombudsmen in the region were entitled with the same competences in the areas of discrimination and torture prevention, a regional conference of Ombudsmen was organized in Ohrid, at which the Ombudsmen of Albania, Bosnia and Herzegovina, Greece, Kosovo, Republic of Serbia, Slovenia, Croatia and Montenegro were present. The conference was a perfect occasion for discussions on the manner in which every institution realizes their new functions, as well as for

department and presented the team who would realize the activities of the national preventive mechanism.

The twinning project initiated by organizing an event at the premises of the European Union Delegation, which had a shape of a press conference at which leaders of the project by the National Ombudsman of Spain and the Protector of the Citizens' Rights of France were present. The twinning project has at its focus the competences of the newly formed departments within the frames of the institution as well, thus besides the organized lectures and training sessions for strengthening the professional capacities of the



the manner of dealing with the inevitable challenges and difficulties.

These activities were especially important for the promotion of the newly established department for prevention of torture or the so called national preventive mechanism, if considered that it is about significantly specific competences foreseen by the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. For that purpose, through a press conference the Ombudsman informed the public on the new

employees at these departments, there were several round tables on central and local level for the public servants, as well as study visits at the office of the National Ombudsman of Spain.

The Department for protection of children's rights and the rights of persons with special needs was not neglected at all in the project activities. Within the frames of the twinning project there were several round tables dealing with issues related to realization and protection of children's rights and the rights of persons with special needs, and with the support of CRONSEE

two meetings of the Children's Ombudsmen from Bosnia and Herzegovina, Vojvodina, Kosovo, Republic of Serbia, Slovenia, Croatia and Montenegro were organized.

Every four months the parallel institutions abroad and the relevant institutions in the country were informed on all news and activities taken through the Ombudsman's Bulletin, and activity supported by SIDA and the OSCE Mission to Skopje as well.

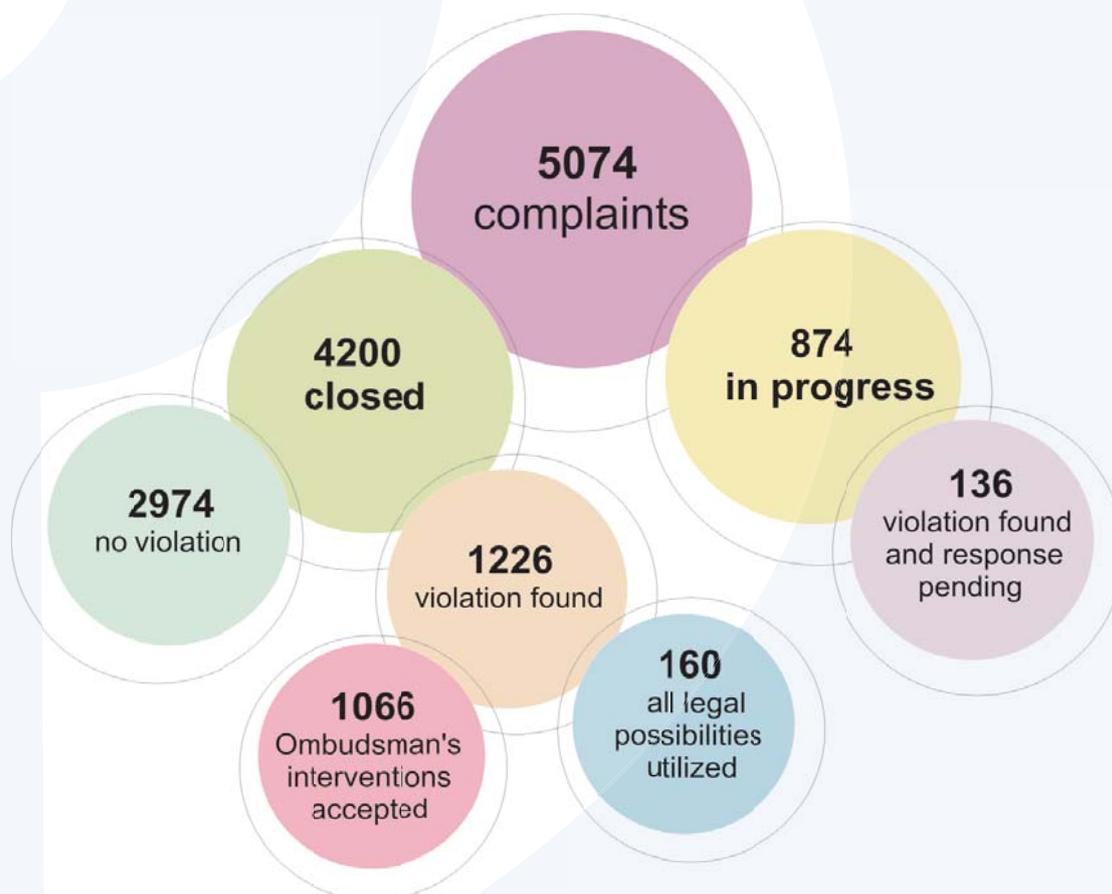


LEVEL OF RESPECT, REALIZATION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS IN STATISTICAL DATA



**The number of
complaints
increased by 5%**

Increase in the number of complaints is seen this report year, like in the previous one. The explanation for this tendency cannot be explained unilaterally, meaning that it is only due to the increased visibility of the Ombudsman in the society and the rising awareness of the citizens for its competences in protection of their freedoms and rights. The increase of the number of complaints is certainly also due to the fact that administration continuously provides realization of citizens' rights in an insufficiently efficient and quality manner yet.



4.256
new complaints

GENERAL DATA

Graph no. 1

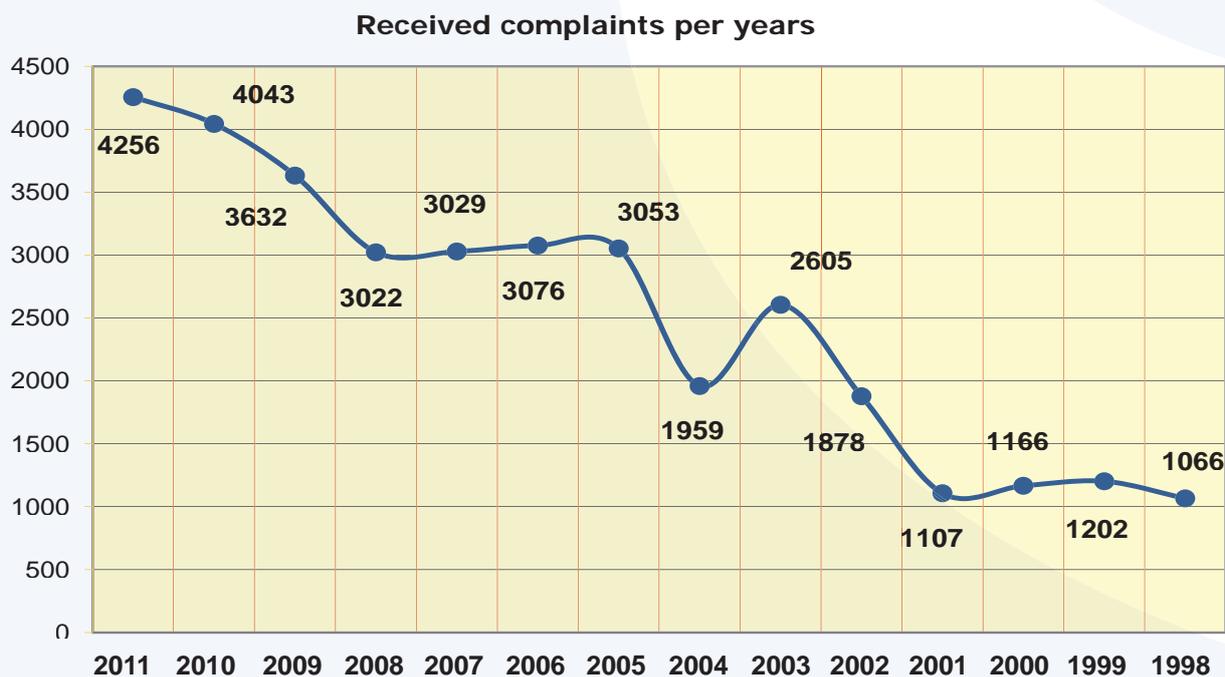


In 2011 the Ombudsman acted upon a total of 5.074 complaints. In this report period 4.256 complaints were submitted by 4.711 citizens. In 39 cases the Ombudsman self-initiated procedures.

Namely, in the office in Skopje and in the regional offices, more than 7.000 citizens were received and more than 7.500 telephone calls were answered.

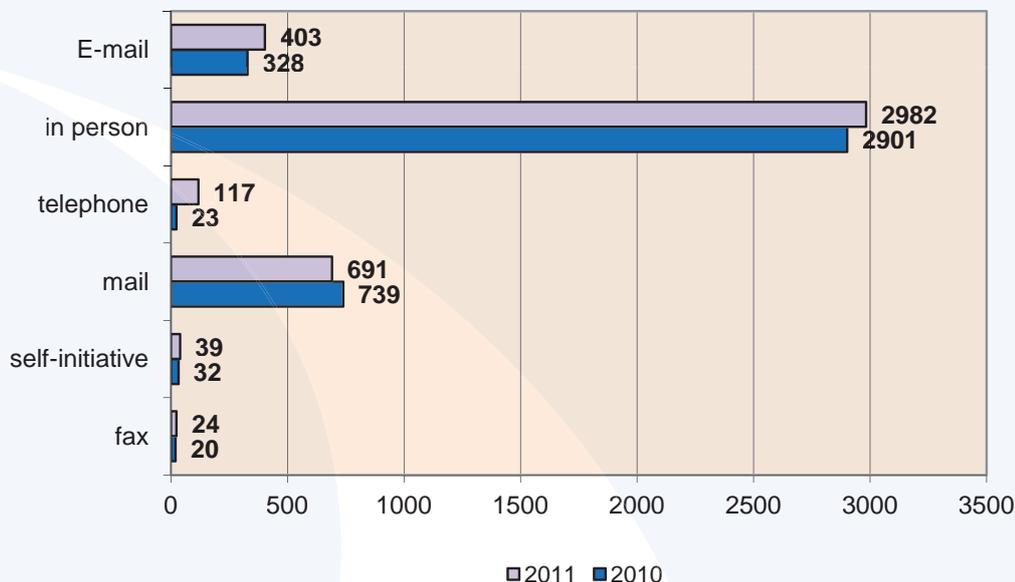
The number of received complaints this report year increased for 5.27% in comparison with the complaints received last year.

Graph no. 2



Graph no. 3

Manner of receipt of complaints



The majority of complaints this year as well, were received in person (2.982) by the complainants at the Ombudsman's offices, followed by complaints received by mail 691, e-mail via the Ombudsman's web site 403 (which indicates that the citizens use this manner of communication increasingly), 39 complaints were formed while action upon a self-initiative, 117 complaints were formed upon telephone calls and 24 complaints arrived via fax.

5.074
complaints acted
upon

DATA IN AREAS

The majority of complaints were received in the areas of: judiciary 732 or 17.20%; consumers' rights (communal and other fees) 673 or 15.81%; working relations 412 or 9.68%; property – legal area 360 or 8.46%; in penitentiary-correctional and educational-correctional institutions 352 or 8.27%; pension and disability insurance 237 or 5.57%; social protection 193 or 4.53%; in the area of protection of rights during police procedures 179 or 4.21%; urban planning and construction 146 or 3.43%; protection of children's rights 144 or 3.38%; civil states and other interior affairs 126 or 2.96%; health protection 115 or 2.70%; finances and financial work 101 or 2.37%; in election rights 90 or 2.11%; accommodation relations 65 or 1,53%; education, science, culture and sport 45 or 1.06%; non-discrimination and adequate and equitable representation 42 or 0.99%; environment 26 or 0.61%; census of the population 12 or 0.28% as well as 206 or 4.84% in other areas.

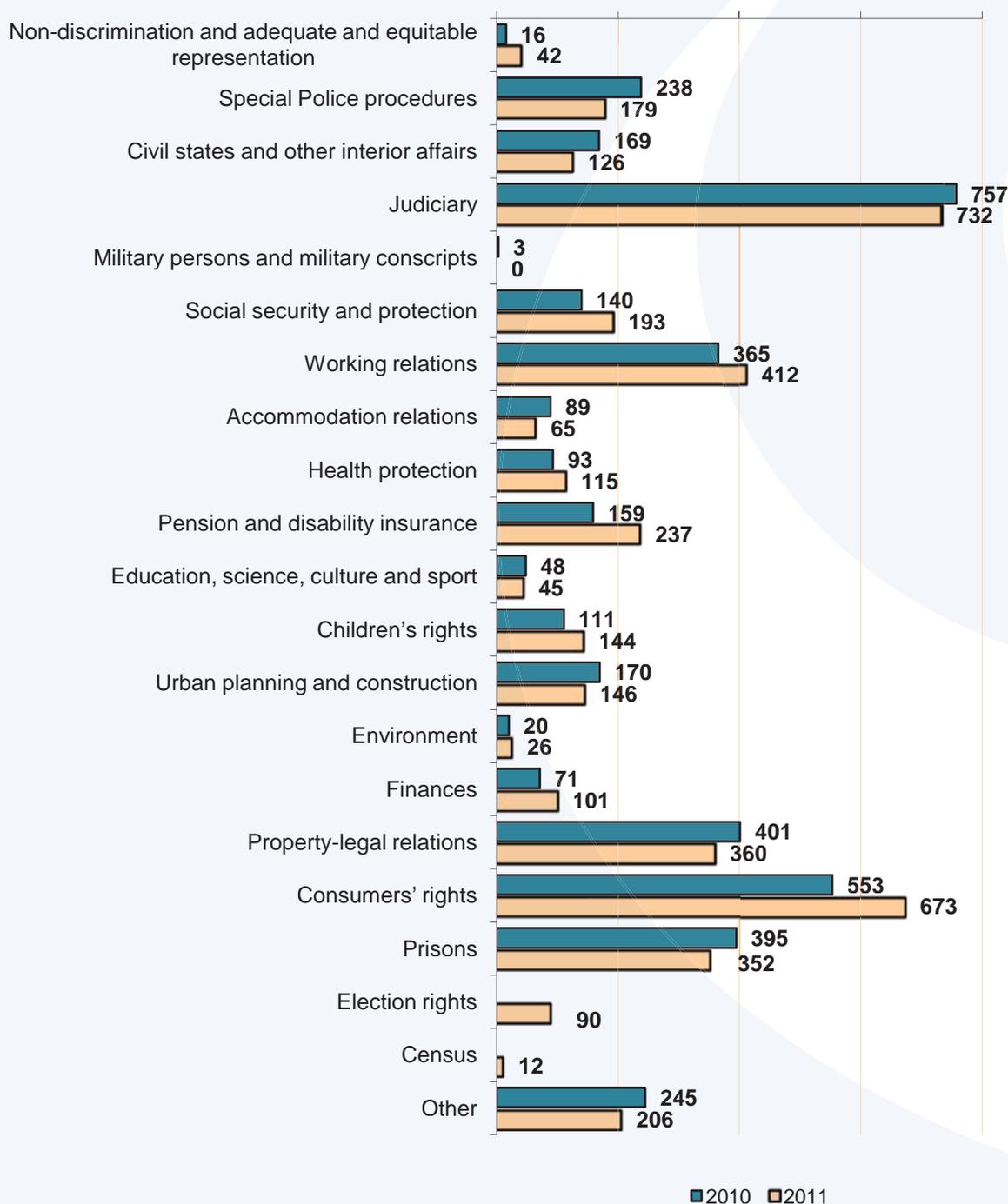
This report year the Republic of Macedonia organized parliamentary elections and census of the population so the Ombudsman acted upon complaints in these two areas as well.

The review of complaints in areas, except in the area of election rights and census of population indicates a slight decrease or increase in comparison with the previous year, except in the

area of non-discrimination and adequate and equitable representation in which the number of complaints increased for 162.5% which indicates that citizens recognize discrimination increasingly, and expose this problem publicly more. In the area of pension and disability insurance the number of complaints increased for 49.06%. The continuous increase of the complaints in the area of consumers' rights over the past several years must not be neglected. Their number increased for 21.70% this report year.

Graph no. 4

Data in areas



Review no. 1

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2011 IN AREAS																
AREA	Received in 2011	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending case
						With a decision for closing or not-initiating a procedure	Closed in other manners	Violations found								
								Opinion, suggestions and recommendations provided	Acted upon the Ombudsman's intervention	All legal activities taken by the Ombudsman	No activities taken upon the Ombudsman's interventions					
Non-discrimination and adequate and equitable representation	42	53	8	50		16	2	19	11	7	1	2	1		36	14
Police procedures	179	217	55	234	3	165	6	22	18	2	2				194	40
Civil states and other interior affairs	126	133	47	173		67	2	54	37	7	10		1		113	60
Judiciary	732	755	86	818	2	624	7	94	84	6	4	1			723	95
Social protection	193	209	30	223		87	1	88	66	14	8	16	1		168	55
Working relations	412	500	67	479	1	299	8	113	53	53	4	8	1	4	424	65
Accommodation relations	65	73	16	81		37	1	38	34	3	1	3	4		74	6
Health protection	115	117	41	156		67	2	46	31	3	12	2	1		104	52
Pension and disability insurance	237	248	44	281		121	4	106	97	2	7				224	57
Education, science, culture and sport	45	71	5	50		30		15	13		2				43	7
Children's rights	144	153	11	155	1	92	1	47	42	1	4	6	4	1	137	18
Urban planning and construction	146	181	69	215		142	3	29	19	4	6	1		1	168	47
Environment	26	26	2	28		17	1	9	9					1	27	1
Finances	101	102	9	110	1	60	1	21	16	3	2				81	29
Property-legal relations	360	407	91	451		236	2	168	104	20	44	1			362	89
Consumers' rights	673	698	158	831	1	387	11	301	265	14	22	6	3	15	678	153
Penitentiary-correctional and educational-correctional institutions	352	444	29	381		233	9	108	89	16	3	10		3	347	34
Election rights	90	99		90	15	40	4	31	29	2					90	
Census	12	12		12		1	1	9	9						11	1
Other	206	215	50	256	2	155	5	47	40	3	4				205	51
TOTAL:	4256	4712	818	5074	26	2876	72	1362	1066	160	136	56	16	25	4200	874

The majority of complaints referred to the work of courts, meaning delay of court procedures, and a number of them were on acts and activities taken and adopted by second instance commissions at the Government of the Republic of Macedonia, the Ministry of Finances, the Ministry of Interior Affairs, the Ministry of Transport and Communications, the Ministry of Labor and Social Policy and other bodies, as well as acts issued by bodies and organizations with public mandate.

Review no. 2

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS PER YEARS																
	Transferred from the previous year	Received during current year	Number of complainants	TOTAL in progress	Anonymous	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending
						With a decision for closing or not initiating a procedure	Closed in other manners	Violations found								
								Opinion, suggestions and recommendations provided	Acted upon the Ombudsman's interventions	All legal activities taken by the Ombudsman	No activities taken upon the Ombudsman's interventions					
2011	818	4256	4711	5074	26	2876	72	1361	1066	160	136	56	16	25	4200	874
2010	784	4043	4125	4827	19	2981	108	987	791	110	86	39	31	14	4009	818

Graph no. 5



During this report year, 19 cases of discrimination were ascertained on various bases. Activities were taken upon 11 interventions, in 7 cases the Ombudsman took all activities, and for one of them the reply is pending. It is typical that citizens, meaning victims, do not continue looking for other type of protection.

Although as it can be seen from the graph, this report year there is a huge increase of complaints by citizens requesting protection from discrimination, still citizens do not recognize the forms it appears in sufficiently, neither do they recognize the manners of protection.

Graph no. 6



Out of the total of 144 complaints received in the area of children's rights, 69 or 47.92% referred to rights in the family, 24 or 16.67% to violation of other rights in educational institutions, 18 or 12.50% to family violence, 9 or 6.25% to health protection, 8 or 5.56% to physical and psychological molestation of children at school or an institution, 3 or 2.08% to children with special needs, one or 0.69% referred to gender abuse and 12 or 8.33% to other children's rights.

Review no. 3

REVIES OF RECEIVED COMPLAINTS PER CITIZES AND STATES OF FOREIGN COMPLAINANTS					
	Year 2010	Year 2011		Year 2010	Year 2011
Berovo	18	8	Negotino	31	16
Bitola	398	532	Ohrid	108	82
Bogdanci	7	5	Pehcevo	2	9
Valandovo	1	6	Prilep	131	132
Veles	85	69	Probistip	15	26
Vinica	20	3	Radovis	38	40
Debar	19	11	Resen	28	21
Delcevo	16	19	Skopje	1743	1923
Demir Hisar	27	18	Struga	67	46
Demir Kapija	7	4	Strumica	86	97
Dojran	1	2	Sveti Nikole	7	13
Gevgelija	43	38	Tetovo	195	205
Gostivar	83	91	Stip	133	115
Zletovo		2	Albania	1	1
Kavadarci	65	42	Great Britain	-	1
Kicevo	181	156	Germany	-	1
Kocani	20	16	Kosovo	-	1
Kratovo	14	6	Check Republic	1	
Kr. Palanka	35	36	Serbia	4	2
Krusevo	14	10	France	-	1
Kumanovo	245	261	Netherland		1
M.Kamenica	9	3	Turkey	1	-
Mak.Brod	27	17	Switzerland	1	-
Mavrovo		3	No city or state selected	116	165
TOTAL				4043	4256

According to the place of residence of the complainants, the majority of complaints are from Skopje, meaning 1.923, followed by complaints from Bitola, Kumanovo, Tetovo, Kicevo, Prilep and other major urban areas. It can be seen that the majority of complaints were by citizens who live in the places where there are regional offices of the Ombudsman.

Review no. 4

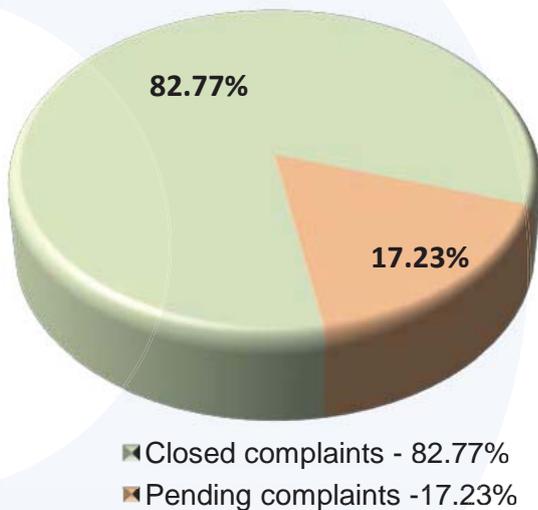
REVIEW OF COMPLAIANTS ACCORDING TO THEIR ETHNICITY IN AREAS																
	AREA	Complaints received in 2010	Anonymous	Number of formed case upon a self-initiative	Organization (Association)	Number of complainants	ETHNICITY									
							Macedonians	Albanians	Serbs	Roma	Macedonians – Muslims	Bosniaks	Vlachs	Turks	Did not declare their ethnicity	Other
1	Non- discrimination and adequate and equitable representation	42		2	2	49	7	5		1	1				31	4
2	Police procedures	179	3	2	2	210	75	21		14				7	88	4
3	Civil states and other interior affairs	126			1	132	24	56		9		3		2	31	7
4	Judiciary	732	2		6	747	334	81	5	8	2		1	17	297	3
5	Social security and protection	193				209	90	44	2	18		1		4	49	1
6	Working relations	412	1		6	493	184	51	3	6		3	1	4	241	
7	Accommodation relations	65			1	72	24	5		3				2	35	3
8	Health protection	115			1	116	54	13	4	1	1		1	1	39	2
9	Pension and disability insurance	237			1	247	122	31		8		1		5	79	1
10	Education, science, culture and sport	45			2	69	27	5		1	1			1	34	
11	Children's rights	144	1	5	16	131	33	13		3	2	3		2	74	1
12	Urban planning and civil engineering	146			1	180	72	9	1	1				2	94	1
13	Environment	26		1	3	22	11	1							10	
14	Finances	101	1	1	2	98	48	11	1						38	
15	Property-legal relations	360		1	5	401	148	35	3			2	7	4	201	1
17	Consumers' rights	673	1		10	687	281	74	7	11	1	2	4	7	295	5
18	Penitentiary – correctional and educational – correctional institutions	352	1	26	3	414	15	14		2					383	
19	Election rights	90	15	1	5	78	2		1						75	
20	Census	12				12	2								9	1
21	Other	206	3		13	199	74	22	4			1	2	3	91	2
	TOTAL:	4256	28	39	80	4565	1627	491	31	86	8	16	16	61	2194	36

The majority of complainants who declared their ethnicity are Macedonians, i.e. 1.627 or 68.28%; 491 or 20.71% are members of the Albanian ethnic community; the smallest number of complaints, 8 or 0.34% were submitted by Macedonians – Muslims, while 2.200 or 48.13% of the complainants did not declare their ethnicity. It can be said that the number of complainants who do not declare their ethnicity is still a very large one.

81.51%
inquiries
conducted

ACTIVITIES

Picture no. 1



The manner of taking activities mainly depends on the quantity of documentation accompanying the complaint. In case additional explanation was needed for ascertaining the real situation, requests were submitted to competent bodies or complainants. In other case, in which the real situation could be clearly ascertained without additional inquiries, immediate activities were taken. The real situation was often ascertained through insights on the spot, and official and other persons were invited for discussions.

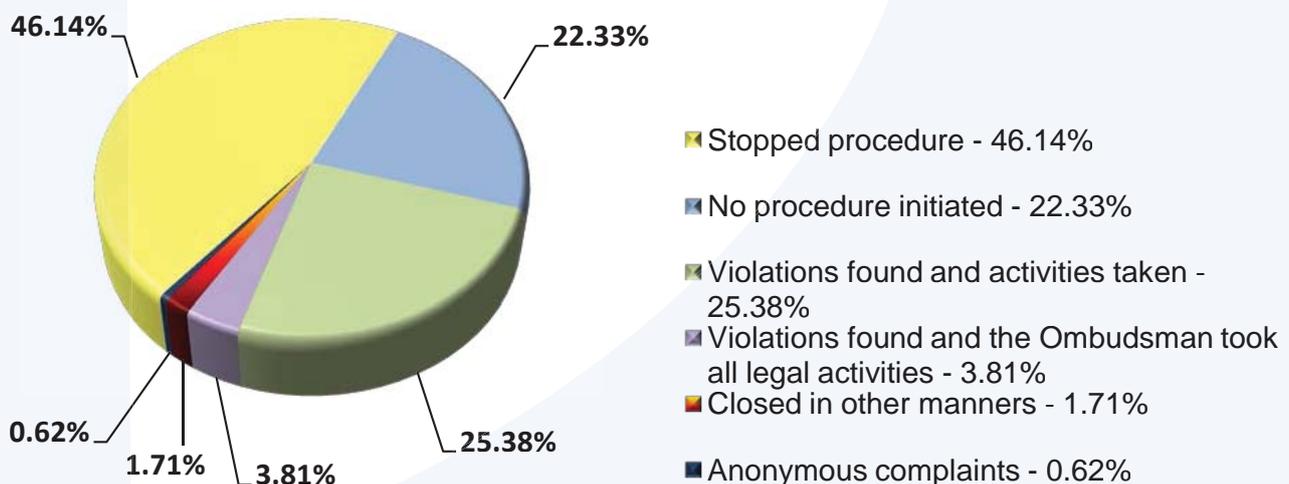
Out of the total of 5,074 complaints the procedure was stopped for 4,200 or 82.77% of the cases, while for 874 or 17.23% complaints the procedure is in progress. (Picture no. 1)

For 1,938 or 46.14% of complaints, out of 4,200 closed complaints, the procedure was stopped, in 938 or 22.33% of cases no procedure was initiated, for 1,066 or 25.38% of complaints activities were

taken after the Ombudsman has found violation of citizens' constitutional and legal rights. In 160 or 3.81% of complaints the Ombudsman took all legal activities, 72 or 1.71% of complaints were closed in other manners, and 28 or 0.62% of cases were closed without taking any activities because they were submitted by anonymous complainants. (Picture no. 2)

Out of 1,362 complaints in which the Ombudsman found violation of constitutional and legal freedoms and rights, in 1,066 or 78.27% cases activities were taken upon the Ombudsman's intervention, in 136 or 9.99% of cases no activities have been taken upon the Ombudsman's interven-

Picture no. 2



tions yet, and in 160 or 11,75% of complaints the Ombudsman took all legal activities.

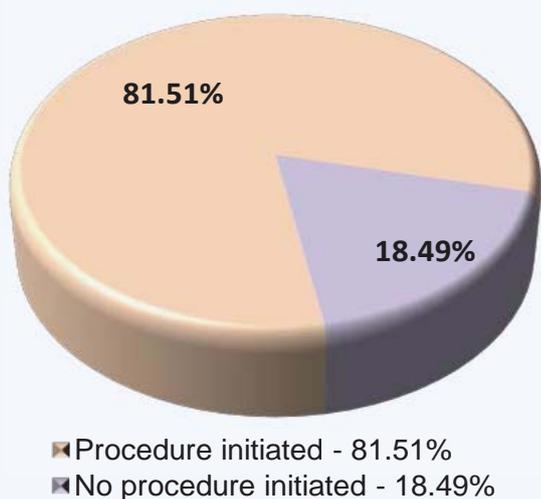
In 2011 the Ombudsman acted upon 4.136 or 81.51% out of the total of 5.074 complaints, and in 938 or 18.49% of complaints no procedure was initiated. Due to this number of complaints for which no procedure was initiated, the Ombudsman finds that there are still citizens who do not have sufficient knowledge of the legal possibilities of the institutions (Picture no.3). Out of the total of 4.136 complaints for which the Ombudsman initiated procedures, 3.262 or 78.87% were closed, and in 874 or 21.13% of cases the procedure is still in progress.

This is a result of the complexity of the problem and the need for a detailed investigation for ascertaining the real situation, as well as due to late activities taken by certain bodies and organization the Ombudsman either requested information from or addressed another intervention for adequate activities to be taken.

Not taking activities on time by competent bodies, besides the stated obligatory time frames, is still a case, however in certain procedures the delay was a result of receiving formal responses by the bodies which did not provide ascertaining the real situation in complete.

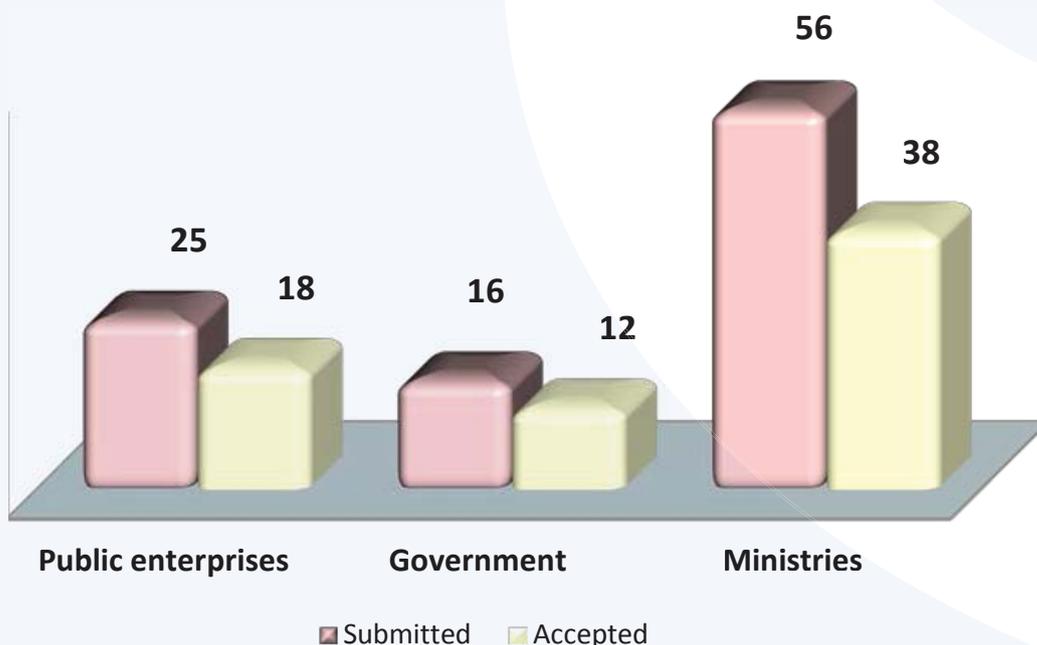
Hence, it can be said that although there is improvement in the relation of the official persons in terms of the Ombudsman's requests, still the necessary quality of cooperation with the Ombudsman has not been achieved. In order to expedite the procedure and improve the cooperation, 25 pieces of information were addressed to bodies and organizations with public mandate, 18 of which were accepted, 56 pieces of information were addressed to competent ministries and 38 of them were accepted, and 16 pieces of information were submitted to the Government of the Republic of Macedonia and for 12 of them activities were taken (Graph no. 7)

Picture no. 3



Graph no. 7

Information submitted by the Ombudsman



During this report year as well, every three months information was submitted to the General Secretariat at the Government of the Republic of Macedonia on the number and type of requests received by the Ombudsman to the bodies of the Government of the Republic of Macedonia and the bodies within ministries. This contributed to expediting certain procedures led by the Ombudsman, but the opinion remains that the quality of cooperation needs further improvement.

26.84%
violations
found

VIOLATIONS FOUND AND MEASURES TAKEN



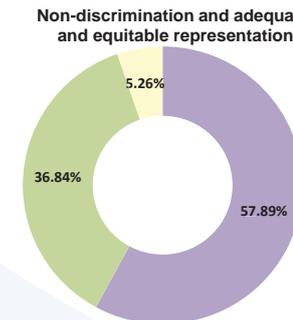
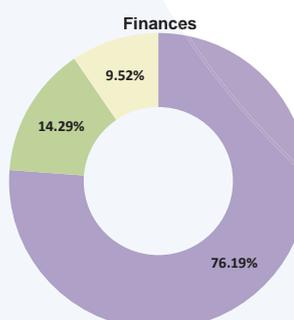
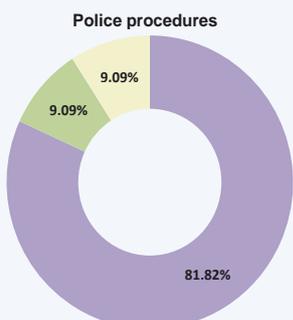
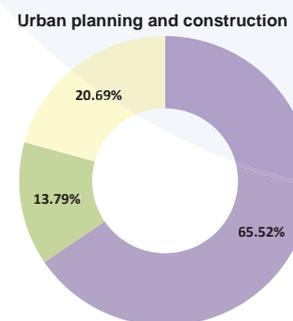
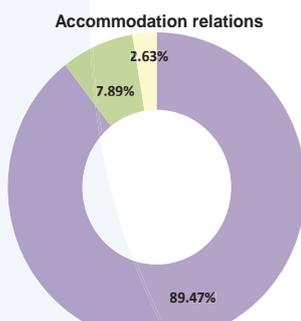
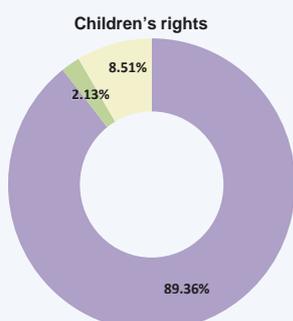
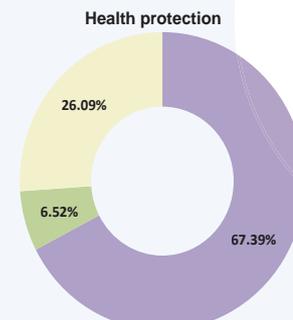
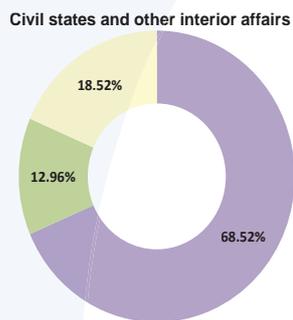
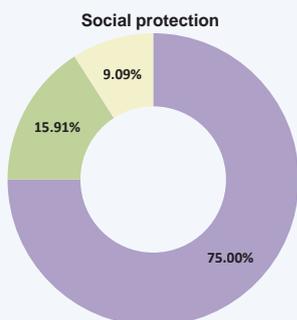
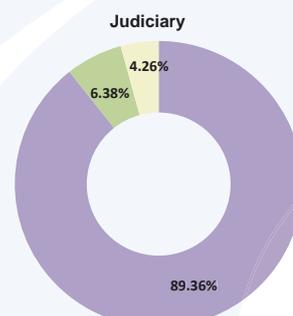
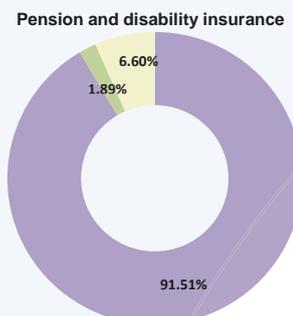
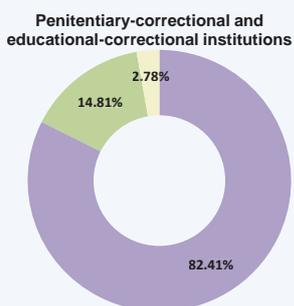
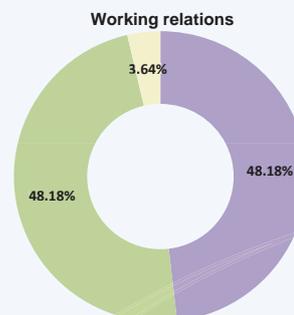
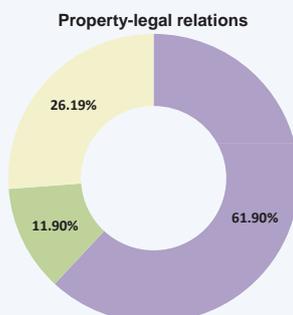
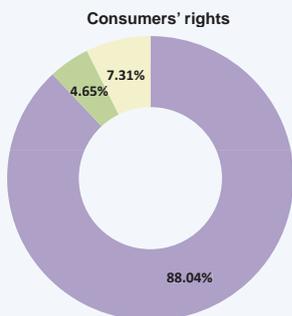
Following the inquiry of the real situation upon complaints and depending on the findings on violation of citizens' rights, the Ombudsman submitted recommendations, suggestions, indications, proposals, opinion, requests and other kind of similar interventions to competent bodies in order to eliminate the irregularities and illegal aspects, as well as to protect citizens' rights.

Out of the total number of cases upon which the Ombudsman took activities in 2011, in 1.362 of the cases violation of constitutional and legal rights of the citizens was

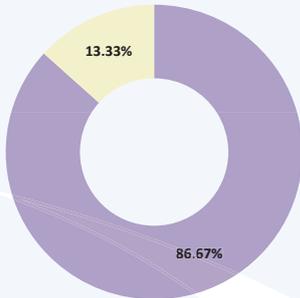
found. In 1.066 of the case (78.27%) the bodies of the state administration, other bodies and organization with public mandate took activities upon the Ombudsman's interventions, and in 136 (9.99%) cases the procedure is still in progress and in 160 (11.75%) of cases the Ombudsman took all legal activities.

The majority of violations found in 2011 were violations of consumers' rights – 301 or 22.12%, and in 265 or 88.04% of which the bodies and organizations with public mandates acted upon the Ombudsman's intervention. They are followed by complaints on legal – property relations, where violation was found in 168 or 12.34% of complaints. In 104 or 61.90% of those complaints the Ombudsman's interventions were accepted. In the area of working relations violation was found in 110 or 8.08% of complaints and in 53 or 48.18% of them the interventions were accepted; in the area of penitentiary – correctional and educational – correctional institutions violation was found in 108 or 7.94% and in 89 or 82.41% of them activities were taken according to the Ombudsman's interventions etc.

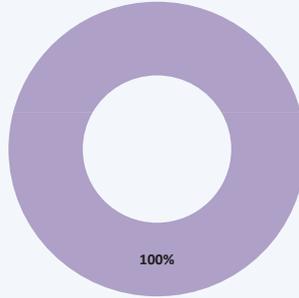
Graph no.8



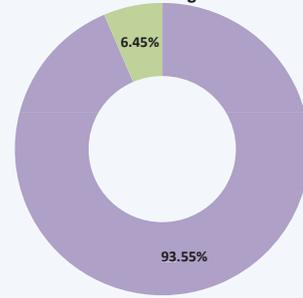
Education, science, culture and sport



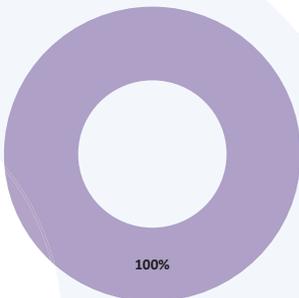
Environment



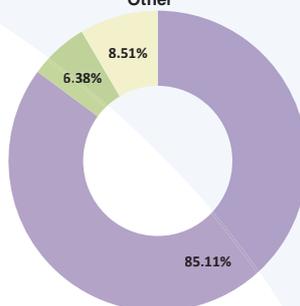
Election rights



Census



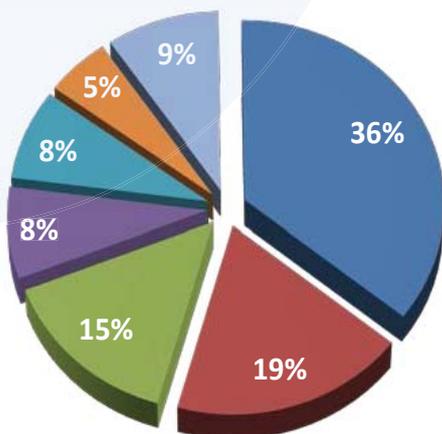
Other



- Acted upon the Ombudsman's intervention
- All legal activities taken by the Ombudsman
- No activities taken upon the Ombudsman's interventions

Out of the total number of violation found, the largest number of cases in which no activities were taken upon the suggestions, recommendations and other interventions by the Ombudsman, were seen at the Ministry of Finances, the second instance commissions at the Government of the Republic of Macedonia, the Ministry of Interior Affairs, the local self-government units etc.

Picture no.. 5 Bodies which in the majority of cases have not taken any activities upon the Ombudsman's interventions yet



- Ministry of Finances - 26
- Local self-government units - 13
- Government of RM – Second instance commissions - 11
- Public enterprises, departments and institutions - 11
- Ministry of Health - 9
- Ministry of Labour and Social Policy - 8
- Ministry of Interior Affairs - 7

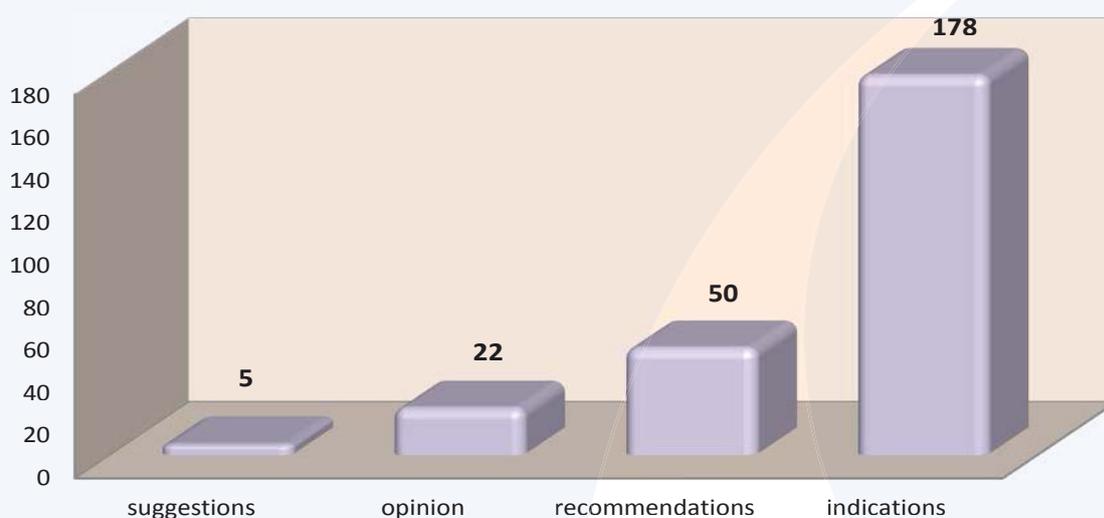
Like in every report year, the violations of citizens' rights referred to violation of legal and procedural provisions, meaning delay of procedures in which citizens realize their rights. Out of the total number of violation found, almost 90% referred to delay of administrative procedures. In other words, in more than 90% of cases the competent bodies did not respect the deadline for deciding upon citizens' requests, and in the large number of cases they abused the principle of silence of the administration.

In order to eliminate the violation found, the Ombudsman addressed 255 interventions to competent bodies out of which 178 indications, 50 recommendations, 22 opinion and five sug-

gestions. Besides, the Ombudsman submitted two requests to the Public Prosecution for initiating a procedure on ascertaining penal responsibility and one proposal for initiating a disciplinary procedure against responsible or official persons at the bodies and organizations. (Graph no.9)

Graph no. 9

Interventions submitted by the Ombudsman



More than 7.000 citizens received for discussion

STATISTICAL DATA FROM REGIONAL OFFICES

The Ombudsman is an institution which is always open for the citizens and the problems they face on a daily basis.

Thus, every work day in the office in Skopje, as well as in the regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip citizens were received and the ombudsman, his deputies and the employees at the professional service accepted a huge number of citizens and in case there was a suspicion for violation of rights, cases were immediately formed and activities were taken afterwards. Still, in cases where there was no ground for taking any activities by the Ombudsman, the citizens were advised on the manner in which they could realize their rights and the name of the competent body for the problem. The Ombudsman's office in Skopje, in 2011 received the largest number of complaints, meaning 2.778. At the Ombudsman's office in Bitola 631 complaints were received, in Tetovo 183, in Kumanovo 237, in Kicevo 218, in Stip 111 and 98 complaints were received at the regional office in Strumica.

REVIEW OF RECEIVED COMPLAINTS AT THE OMBUDSMAN'S OFFICES

AREA	Skopje		Bitola		Kicevo		Strumica		Tetovo		Stip		Kumanovo	
	Activities taken	Received complaints												
Non-discrimination and adequate and equitable representation	26	27			1		1					1	1	1
Police procedures	75	96	32	27	30	29	8	3	7	5	10	7	18	13
Civil states	64	72	13	11	7	6	2	1	4	3	1		35	33
Judiciary	315	287	169	142	75	73	39	25	50	36	40	26	44	43
Social protection	69	71	57	55	10	9	12	11	12	13	4	4	30	31
Working relations	306	343	49	40	11	7	5	3	25	18	15	6	12	6
Accommodation relations	50	52	13	11					1	1			1	1
Health protection	54	56	31	26	1	1	7	8	11	11	2	5	9	8
Pension and disability insurance	133	137	36	34	15	19	19	16	12	12	9	5	13	14
Education, science, culture and sport	30	32	9	8	1	1	2	1	1	1			2	2
Children's rights	136	125	5	5	2	4			1	4	1	7		
Urban planning and construction	66	86	16	13	25	18	7	4	9	7	6	2	17	16
Environment	10	14	6	6	2	2	4	1			1		3	3
Finances	64	64	18	17	2	4	2	3	2	1	2	2	11	10
Property – legal relations	188	240	62	46	26	21	18	10	31	18	14	10	21	15
Consumers' rights	424	460	146	133	15	6	8	5	40	36	5	2	35	31
Penitentiary – correctional and educational – correctional institutions	285	298	17	12	5	4	5	2	6	6	34	30		
Election rights	82	82	8	8										
Census	12	12												
Other	107	124	47	37	15	14	6	5	15	11	4	4	11	10
TOTAL :	2496	2778	734	631	243	218	145	98	227	183	148	111	263	237

PROTECTION OF RIGHTS IN AREAS



NON-DISCRIMINATION AND ADEQUATE AND EQUITABLE REPRESENTATION

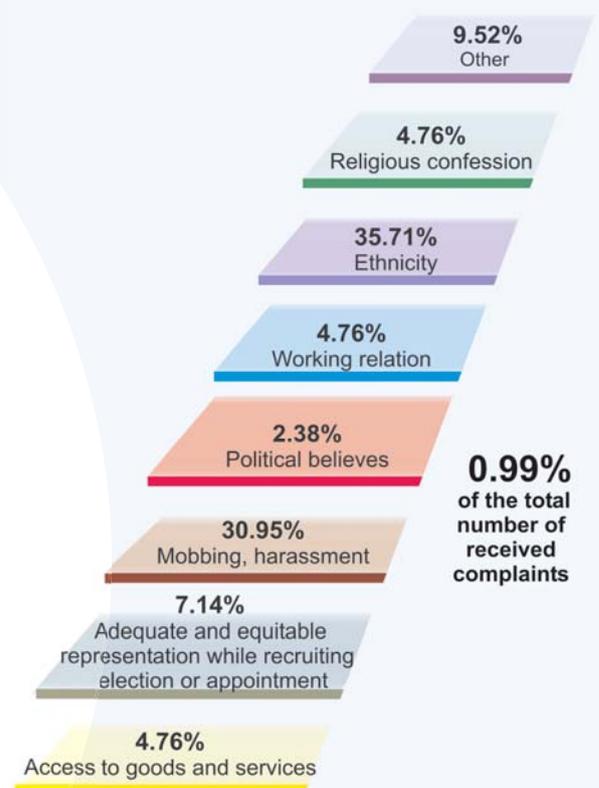
Non-discrimination

In direction of protection of citizens' rights from discrimination and monitoring the conditions in respect of the non-discrimination principles application, the Ombudsman this report year acted upon single complaints, and at the same time collected data from institutions it has the competence to act towards.

In comparison with previous years, this report year demonstrates a tendency of increase of the number of complaints on discriminatory behavior. We believe that the reason for this is the increased awareness of the citizens on this phenomenon and its shapes and forms of appearance, as well as on the possibilities for extra judicial protection of violated rights from discriminatory behavior. However, it should also be mentioned that the citizens are still not prepared for public exposure of problems and clear and unambiguous expression of discrimination. Events of discriminatory behavior are present in all aspects of the society; however, what is typical for this report year is that complaints refer to realization of rights from working relations with elements of discrimination on political orientation, meaning convincing and discrimination on ethnicity basis.

While taking measures upon complaints, utilizing its legal possibilities, the Ombudsman indicated to the institutions the prohibition of all shapes of discrimination on political or other orientation basis. Thus, in the majority of cases the Ombudsman's interventions were accepted, and certain cases were stopped due to initiation of a court procedure by complainants. A typical example of discrimination on political grounds is the one of a local self-government employee.

Namely, the Mayor issued authorization towards an employee at the Municipality, considering it an act of re-appointment, and the employee was appointed to perform duties within a body of the Municipality, completely neglecting the fact that the employee had the status of a state servant and in case there is a need for re-appointment, it needs to be to a post having the status of a state servant, and not to a post without that status. That action was in complete opposition with the legal manner of re-appointment by issuing an adequate re-appointment decision. Immediately after issuing this authorization, the mayor of the Municipality handed a decision for a financial sanction on the basis of committed disciplinary offense, while completely omitting the



legal procedure for confirming a disciplinary offense on the one hand, and on the other hand, the decision contained the reason behind the decision stating that the employee did not submit data on his property to the mayor, so that the employee's tax payer status could be determined. This request by the Mayor cannot be a reason for issuing a decision for a disciplinary offense by no means even if the legal procedure had been conducted.

Immediately after issuing the decision for a disciplinary offense, a decision for using the rest of vacancy days was issued, without taking into consideration the employee's will for the period he wanted to use those days due to family obligations. Having in mind these actions by the Mayor, which clearly convey the intention to discriminate the employee due to different political beliefs through illegal procedures and issuing illegal decisions, the Ombudsman indicated the need for to the mayor to annul all illegal acts discriminating the employee. The competent labor inspector was also informed on this issue and it was requested from him to eliminate the ascertained violations of the employee's rights.

Following the indication by the Ombudsman and the insight by the inspection, after which a decision was issued for annulling all issued decisions, the mayor took immediate actions and issued a decision for annulling the authorization which was considered as an act of re-appointment. Afterwards, a decision was issued for annulling the decision for a financial fine for committed disciplinary offense, and regarding the decision issued for using vacation days the mayor did not take

any measures, taking into consideration the fact that the employee used the days according to the mayor's will and there was no point in its annulment.

Another typical case of discriminatory behavior is not realizing an annex to an employment contract of a journalist at a medium. The persons in charge at the medium refused to realize an annex to the employment contract for promotion of the journalist, which according to the journalist was discrimination on the ethnicity basis. The non-realization of the annex was explained by its issuing in a time of elections campaign. Although the persons in charge at the media since the beginning justified the

non-realization of the annex by a note received by the State Commission for prevention of corruption for prohibition of utilizing budget means in times of elections process, after the Ombudsman's intervention the recommendation was accepted and the complainant realized her right.

During this year there were complaints on psychological harassment at work – mobbing. These complaints were also acted upon in the area of working relations, taking into consideration that the complainants claimed they were psychologically molested for not accepting re-appointment. However, since mobbing is one of the discrimination bases, it was found that it needs to be adequately positioned in this area, too. Regarding these complaints the Ombudsman finds that the existing legislation (only one article of the Law on Working Relations) does not provide a possibility for a complete investigation of cases of mobbing both in the procedures before the Ombudsman, and further on in a possible court procedure. Hence, the conclusion for an urgent passing of a law on mobbing protection is imposed without any doubt.

An activity taken outside the scope of cases during this year by the Ombudsman was processing data received from municipalities on the basis of a questionnaire whether, in accordance with the Law on Local Self Government, they have established a commission on equal possibilities and a commission on relations among communities. Data gathered reveals that a small number of municipalities have not established the listed commissions. Unfortunately, there is also the finding that even in municipalities where the commission have been established, they do not function or



have had only several sessions. In this context the Ombudsman finds it necessary to remind of the obligation by the legal norm and recommends establishing and functioning of the commission on equal possibilities and the commission on relations among communities, because they have the function to promote tolerance and respect of diversity of all citizens, members of all communities in the Republic of Macedonia.

In order for the situation in the area of non-discrimination to be improved, it should be noted that the State Commission on Discrimination Protection started functioning and the Ombudsman established collaboration with it. The Ombudsman expects from the Commission in future to contribute significantly in protection from discriminatory behavior in all areas by its activities. In that direction is the preparation of the National Equality and Non-discrimination Strategy, in which the Ombudsman has participated since the very beginning.



In order for the situation in the area of non-discrimination to be improved, it should be noted that the State Commission on Discrimination Protection started functioning and the Ombudsman established collaboration with it. The Ombudsman expects from the Commission in future to contribute significantly in protection from discriminatory behavior in all areas by its activities. In that direction is the preparation of the National Equality and Non-discrimination Strategy, in which the Ombudsman has participated since the very beginning.

Findings

Discrimination is present in all spheres of the society, especially on ethnic and political basis.

There is lack of informational-educational campaigns for strengthening the citizens' awareness of the existing forms of discrimination in our society.

Recommendations

Taking measures by all competent institutions for effective prevention and protection of discrimination, by proper implementation of the legislation, and especially the legal provisions of the Law on Discrimination Prevention and Protection.

Realization of informational-educational campaigns for strengthening the awareness of proper realization of the equality principle for all citizens.

Adequate and equitable representation

Within the frames of screening the situation with the implementation of the adequate and equitable representation of communities' principle, the Ombudsman addressed the bodies of state administration, independent bodies and organizations, local self-government units, medical, cultural and educational institutions, courts and prosecutions and other institutions and departments it is legally competent to act towards, with previously prepared graphs. In the report year, unlike the previous one, requests with prepared tables to be filled out were submitted to 1082 institutions, which is 196 institutions more than last year. 972 institutions submitted data, whereas 110 institutions did not reply, besides the written interventions and telephone contacts. Thus, for instance no data was received from the Ministry of Finances and the following municipalities: Vrapciste, Gradsko, Demir Kapija, Konce, Negotino, Novo Selo and Studenicani, as well as from some educational and cultural institutions on local level. Data received from higher education institutions is on the level of universities.

Analyzing data received it can be concluded that there is an improvement in the implementation of the adequate and equitable representation principle, but there is a large number of institutions which have not reached the obligatory level of adequate and equitable representation. This finding, which leads to a conclusion that at certain institutions the adequate and equitable representation principle is not applied sufficiently, is especially typical when analyzing data on representation of communities' members on managerial level. On the other hand, like in the previous years, we have to emphasize that the level of application of the adequate and equitable principle is still low in regards to non-management level at public enterprises as well.



In terms of monitoring the situation with respecting the adequate and equitable representation principle, data was requested from the Secretariat for Implementation of the Framework Agreement regarding the activities taken in the year 2011 and the planned ones for 2012. According to data received, it is evident that in 2011, in direction of improving the situation with the implementation of the adequate and equitable representation principle, there were six job advertisements. After completion of procedures, a total of 543 persons were recruited, 361 of whom with completed higher education and 182 with completed secondary education. Regarding the activities planned for 2012, the Secretariat for Implementation of the Framework Agreement informed that they would continue the appointment procedures for the recruited persons from previous advertisements, as well as that they would initiate new recruitment procedures, in accordance with the annual employment program of the Secretariat and the received annual employment plans by the bodies.

Regarding the work on cases, complaints submitted by Egyptian community members were typical. They expressed their dissatisfaction from the published advertisement for engaging regional census workers because the advertised text did not contain an "other ethnic communities" graph, meaning they were not adequately and equitably represented in the census activities. In that context, acting upon the complaints, the Ombudsman recommended the State Census Commission to properly implement the IV Amendment of the Constitution of the Republic of Macedonia in the advertisement, which stipulates that the citizens of the Republic of Macedonia, the Macedonian people, as well as the citizens who live within its borders and who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people, Bosniak people and others are equal in their rights and obligations. In the re-advertised text for engaging regional census workers, due to postponing of the census date, the omission was corrected.

In terms of respect of this constitutional principle it should be noted that the Ombudsman

in this report year, while taking activities upon cases, indicated to institutions the constitutional provisions for proper application of the adequate and equitable representation principle for citizens of all communities, because the implementation of this principle, apart from respecting the ethnic identity, represents respect of the interests of all citizens of the Republic of Macedonia.

Namely, ensuring a real balance between the number of employees and the representation of the members of all communities may contribute to building multi-ethnic loyalty and tolerance, and at the same time it may represent a type of prevention due to elimination of discrimination on ethnic basis.

		ADEQUATE AND EQUITABLE REPRESENTATION																	
		Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other			
		Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%		
Cabinet of the President of RM - Expert Service	managerial posts	14	11	78,6	3	21,4	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	
	non-managerial posts	26	21	80,8	1	3,8	1	3,8	0	0,0	1	3,8	2	7,7	0	0,0	0	0,0	
	employees at the body	40	32	80,0	4	10,0	1	2,5	0	0,0	1	2,5	2	5,0	0	0,0	0	0,0	
Parliament of RM - Expert Service	managerial posts	58	43	74,1	13	22,4	1	1,7	0	0,0	0	0,0		0,0	0	0,0	1	1,7	
	non-managerial posts	210	158	75,2	42	20,0	2	1,0	1	0,5	5	2,4		0,0	2	1,0	0	0,0	
	employees at the body	268	201	75,0	55	20,5	3	1,1	1	0,4	5	1,9	0	0,0	2	0,7	1	0,4	
The Ombudsman	managerial posts	33	23	69,7	7	21,2		0,0	1	3,0	1	3,0	1	3,0		0,0		0,0	
	non-managerial posts	45	16	35,6	21	46,7	1	2,2	2	4,4	2	4,4	1	2,2	1	2,2	1	2,2	
	employees at the body	78	39	50,0	28	35,9	1	1,3	3	3,8	3	3,8	2	2,6	1	1,3	1	1,3	
State Commission for Prevention from Corruption	managerial posts	11	10	90,9	1	9,1	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	
	non-managerial posts	12	6	50,0	5	41,7	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	1	8,3	
	employees at the body	23	16	69,6	6	26,1	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	1	4,3	
Constitutional Court of RM	managerial posts	10	7	70,0	2	20,0	1	10,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	
	non-managerial posts	19	17	89,5	1	5,3	0	0,0	0	0,0	1	5,3	0	0,0	0	0,0	0	0,0	
	employees at the body	29	24	82,8	3	10,3	1	3,4	0	0,0	1	3,4	0	0,0	0	0,0	0	0,0	
Judicial Council of RM	managerial posts	37	24	64,9	8	21,6	2	5,4	0	0,0	0	0,0	0	0,0	2	5,4	1	2,7	
	non-managerial posts	19	16	84,2	1	5,3	1	5,3	0	0,0	1	5,3	0	0,0	0	0,0	0	0,0	
	employees at the body	56	40	71,4	9	16,1	3	5,4	0	0,0	1	1,8	0	0,0	2	3,6	1	1,8	
Higher Administrative Court	managerial posts	14	12	85,7	2	14,3		0,0		0,0		0,0		0,0		0,0		0,0	
	non-managerial posts	9	8	88,9	1	11,1		0,0		0,0		0,0		0,0		0,0		0,0	
	employees at the body	23	20	87,0	3	13,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	
Administrative Court of RM	managerial posts	23	15	65,2	6	26,1	1	4,3	0	0,0	0	0,0	1	4,3	0	0,0	0	0,0	
	non-managerial posts	33	32	97,0	1	3,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	
	employees at the body	56	47	83,9	7	12,5	1	1,8	0	0,0	0	0,0	1	1,8	0	0,0	0	0,0	
Supreme Court of RM	managerial posts	30	24	80,0	6	20,0		0,0		0,0		0,0		0,0		0,0		0,0	
	non-managerial posts	12	6	50,0	1	8,3	1	8,3	1	8,3	2	16,7	1	8,3		0,0		0,0	
	employees at the body	42	30	71,4	7	16,7	1	2,4	1	2,4	2	4,8	1	2,4	0	0,0	0	0,0	
Public Prosecution of RM	managerial posts	25	16	64,0	6	24,0		0,0		0,0	2	8,0	1	4,0		0,0		0,0	
	non-managerial posts	14	12	85,7	2	14,3		0,0		0,0		0,0		0,0		0,0		0,0	
	employees at the body	39	28	71,8	8	20,5	0	0,0	0	0,0	2	5,1	1	2,6	0	0,0	0	0,0	
State Attorney of RM	managerial posts	38	36	94,7	0	0,0	1	2,6	0	0,0	0	0,0	1	2,6	0	0,0	0	0,0	
	non-managerial posts	65	59	90,8	3	4,6	1	1,5	0	0,0	2	3,1	0	0,0	0	0,0	0	0,0	
	employees at the body	103	95	92,2	3	2,9	2	1,9	0	0,0	2	1,9	1	1,0	0	0,0	0	0,0	
Public Prosecutors Council	managerial posts	9	6	66,7	2	22,2	0	0,0	0	0,0	1	11,1	0	0,0	0	0,0	0	0,0	
	non-managerial posts	5	5	100,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	
	employees at the body	14	11	78,6	2	14,3	0	0,0	0	0,0	1	7,1	0	0,0	0	0,0	0	0,0	
National Bank of RM	managerial posts	89	86	96,6	1	1,1	0	0,0	0	0,0	0	0,0	2	2,2	0	0,0	0	0,0	
	non-managerial posts	345	304	88,1	20	5,8	4	1,2	1	0,3	11	3,2	4	1,2	0	0,0	1	0,3	
	employees at the body	434	390	89,9	21	4,8	4	0,9	1	0,2	11	2,5	6	1,4	0	0,0	1	0,2	
State Election Commission - Expert Service	managerial posts	29	19	65,5	8	27,6	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	2	6,9	
	non-managerial posts	68	46	67,6	19	27,9	0	0,0	0	0,0	1	1,5	0	0,0	0	0,0	2	2,9	
	employees at the body	97	65	67,0	27	27,8	0	0,0	0	0,0	1	1,0	0	0,0	0	0,0	4	4,1	

Macedonian Academy of Sciences and Arts - Skopje	managerial posts	5	5	100,0		0,0		0,0		0,0		0,0		0,0		0,0		0,0
	non-managerial posts	52	49	94,2	1	1,9	1	1,9		0,0		0,0		0,0		0,0	1	1,9
	employees at the body	57	54	94,7	1	1,8	1	1,8	0	0,0	0	0,0	0	0,0	0	0,0	1	1,8
Ministry of Interior Affairs	managerial posts	214	168	78,5	28	13,1	0	0,0	3	1,4	8	3,7	2	0,9	0	0,0	5	2,3
	non-managerial posts	11196	8814	78,7	1891	16,9	71	0,6	73	0,7	180	1,6	10	0,1	0	0,0	157	1,4
	employees at the body	11410	8982	78,7	1919	16,8	71	0,6	76	0,7	188	1,6	12	0,1	0	0,0	162	1,4
Ministry of Economy	managerial posts	84	62	73,8	19	22,6	1	1,2		0,0	1	1,2		0,0	1	1,2		0,0
	non-managerial posts	371	255	68,7	98	26,4	3	0,8		0,0	5	1,3	6	1,6	1	0,3	3	0,8
	employees at the body	455	317	69,7	117	25,7	4	0,9	0	0,0	6	1,3	6	1,3	2	0,4	3	0,7
Ministry of Environment and Spatial Planning	managerial posts	48	40	83,3	4	8,3	1	2,1	0	0,0	2	4,2	1	2,1	0	0,0	0	0,0
	non-managerial posts	144	83	57,6	56	38,9	0	0,0	0	0,0	2	1,4	0	0,0	0	0,0	3	2,1
	employees at the body	192	123	64,1	60	31,3	1	0,5	0	0,0	4	2,1	1	0,5	0	0,0	3	1,6
Ministry of Health	managerial posts	61	52	85,2	7	11,5		0,0		0,0		0,0		0,0		0,0	2	3,3
	non-managerial posts	140	52	37,1	81	57,9	2	1,4	1	0,7	2	1,4	1	0,7	1	0,7		0,0
	employees at the body	201	104	51,7	88	43,8	2	1,0	1	0,5	2	1,0	1	0,5	1	0,5	2	1,0
Ministry of Agriculture, Forestry and Water Economy	managerial posts	160	146	91,3	11	6,9	1	0,6	0	0,0	1	0,6	1	0,6	0	0,0	0	0,0
	non-managerial posts	815	646	79,3	126	15,5	10	1,2	2	0,2	20	2,5	3	0,4	4	0,5	4	0,5
	employees at the body	975	792	81,2	137	14,1	11	1,1	2	0,2	21	2,2	4	0,4	4	0,4	4	0,4
Ministry of Informatics Society and Public Administration	managerial posts	28	25	89,3	2	7,1		0,0		0,0		0,0	1	3,6		0,0		0,0
	non-managerial posts	88	72	81,8	9	10,2	1	1,1	1	1,1	2	2,3	1	1,1	1	1,1	1	1,1
	employees at the body	116	97	83,6	11	9,5	1	0,9	1	0,9	2	1,7	2	1,7	1	0,9	1	0,9
Ministry of Culture	managerial posts	43	36	83,7	5	11,6	1	2,3	0	0,0	1	2,3	0	0,0	0	0,0	0	0,0
	non-managerial posts	105	39	37,1	55	52,4	2	1,9	2	1,9	5	4,8	1	1,0	1	1,0	0	0,0
	employees at the body	148	75	50,7	60	40,5	3	2,0	2	1,4	6	4,1	1	0,7	1	0,7	0	0,0
Ministry of Local Self Government	managerial posts	18	13	72,2	4	22,2	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	1	5,6
	non-managerial posts	25	9	36,0	16	64,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
	employees at the body	43	22	51,2	20	46,5	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	1	2,3
Ministry of Foreign Affairs	managerial posts	117	100	85,5	14	12,0	1	0,9		0,0	1	0,9		0,0		0,0	1	0,9
	non-managerial posts	393	274	69,7	102	26,0	4	1,0	2	0,5	3	0,8	2	0,5	4	1,0	2	0,5
	employees at the body	510	374	73,3	116	22,7	5	1,0	2	0,4	4	0,8	2	0,4	4	0,8	3	0,6
Ministry of Education and Science	managerial posts	28	20	71,4	6	21,4	1	3,6	1	3,6		0,0		0,0		0,0		0,0
	non-managerial posts	250	154	61,6	79	31,6	5	2,0	1	0,4	7	2,8	1	0,4		0,0	3	1,2
	employees at the body	278	174	62,6	85	30,6	6	2,2	2	0,7	7	2,5	1	0,4	0	0,0	3	1,1
Ministry of Defense	managerial posts	80	72	90,0	6	7,5		0,0	0	0,0	1	1,3	1	1,3	0	0,0	0	0,0
	non-managerial posts	795	678	85,3	83	10,4	8	1,0	1	0,1	10	1,3	6	0,8	4	0,5	5	0,6
	employees at the body	875	750	85,7	89	10,2	8	0,9	1	0,1	11	1,3	7	0,8	4	0,5	5	0,6
Ministry of Justice	managerial posts	47	43	91,5	2	4,3		0,0		0,0	1	2,1		0,0	1	2,1		0,0
	non-managerial posts	203	122	60,1	63	31,0	6	3,0	4	2,0	4	2,0	2	1,0	1	0,5	1	0,5
	employees at the body	250	165	66,0	65	26,0	6	2,4	4	1,6	5	2,0	2	0,8	2	0,8	1	0,4
Ministry of Transport and Communications	managerial posts	62	54	87,1	6	9,7	1	1,6	0	0,0	1	1,6	0	0,0	0	0,0	0	0,0
	non-managerial posts	246	197	80,1	41	16,7	4	1,6	0	0,0	3	1,2	1	0,4	0	0,0	0	0,0
	employees at the body	308	251	81,5	47	15,3	5	1,6	0	0,0	4	1,3	1	0,3	0	0,0	0	0,0
Ministry of Labor and Social Policy	managerial posts	50	38	76,0	6	12,0	1	2,0	2	4,0	2	4,0	1	2,0	0	0,0	0	0,0
	non-managerial posts	344	238	69,2	82	23,8	1	0,3	5	1,5	6	1,7	8	2,3	3	0,9	1	0,3
	employees at the body	394	276	70,1	88	22,3	2	0,5	7	1,8	8	2,0	9	2,3	3	0,8	1	0,3
Ministry of Finances	managerial posts	0																
	non-managerial posts	0																
	employees at the body	0	0		0		0		0		0		0		0		0	
General Secretariat	managerial posts	53	47	88,7	4	7,5	1	1,9	0	0,0	1	1,9	0	0,0	0	0,0	0	0,0
	non-managerial posts	167	138	82,6	11	6,6	4	2,4	6	3,6	0	0,0	3	1,8	3	1,8	2	1,2
	employees at the body	220	185	84,1	15	6,8	5	2,3	6	2,7	1	0,5	3	1,4	3	1,4	2	0,9
General Services Department	managerial posts	13	11	84,6		0,0		0,0		0,0	1	7,7	1	7,7		0,0		0,0
	non-managerial posts	363	319	87,9	22	6,1	5	1,4	5	1,4	6	1,7	2	0,6	3	0,8	1	0,3
	employees at the body	376	330	87,8	22	5,9	5	1,3	5	1,3	7	1,9	3	0,8	3	0,8	1	0,3

Legislation Secretariat	managerial posts	13	11	84,6	0	0,0	0	0,0	0	0,0	0	0,0	1	7,7	0,0	1	7,7	
	non-managerial posts	11	8	72,7	2	18,2	1	9,1	0	0,0	0	0,0	0	0,0	0,0	0	0,0	
	employees at the body	24	19	79,2	2	8,3	1	4,2	0	0,0	0	0,0	1	4,2	0	0,0	1	4,2
Secretariat for European Issues	managerial posts	17	15	88,2	0	0,0	1	5,9	0	0,0	0	0,0	1	5,9	0	0,0	0	0,0
	non-managerial posts	73	60	82,2	4	5,5	2	2,7	1	1,4	2	2,7	2	2,7	1	1,4	1	1,4
	employees at the body	90	75	83,3	4	4,4	3	3,3	1	1,1	2	2,2	3	3,3	1	1,1	1	1,1
Secretariat for Implementation of the Framework Agreement *	managerial posts	37	1	2,7	34	91,9	1	2,7		0,0		0,0		0,0	1	2,7		0,0
	non-managerial posts	1312	14	1,1	1019	77,7	153	11,7	82	6,3	10	0,8	8	0,6	26	2,0		0,0
	employees at the body	1349	15	1,1	1053	78,1	154	11,4	82	6,1	10	0,7	8	0,6	27	2,0	0	0,0
Higher Public Prosecutions	managerial posts	30	23	76,7	6	20,0	0	0,0	0	0,0	0	0,0	1	3,3	0	0,0	0	0,0
	non-managerial posts	32	31	96,9	1	3,1	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
	employees at the body	62	54	87,1	7	11,3	0	0,0	0	0,0	0	0,0	1	1,6	0	0,0	0	0,0
Basic Public Prosecutions	managerial posts	205	177	86,3	20	9,8	2	1,0	0	0,0	2	1,0	1	0,5	1	0,5	2	1,0
	non-managerial posts	213	173	81,2	23	10,8	3	1,4	1	0,5	3	1,4	7	3,3	1	0,5	2	0,9
	employees at the body	418	350	83,7	43	10,3	5	1,2	1	0,2	5	1,2	8	1,9	2	0,5	4	1,0
Appellate Courts	managerial posts	111	83	74,8	21	18,9	1	0,9	0	0,0	0	0,0	3	2,7	0	0,0	3	2,7
	non-managerial posts	216	178	82,4	21	9,7	2	0,9	1	0,5	2	0,9	9	4,2	2	0,9	1	0,5
	employees at the body	327	261	79,8	42	12,8	3	0,9	1	0,3	2	0,6	12	3,7	2	0,6	4	1,2
Basic Courts	managerial posts	547	466	85,2	56	10,2	2	0,4	0	0,0	9	1,6	9	1,6	3	0,5	2	0,4
	non-managerial posts	1921	1636	85,2	178	9,3	25	1,3	25	1,3	16	0,8	28	1,5	6	0,3	7	0,4
	employees at the body	2468	2102	85,2	234	9,5	27	1,1	25	1,0	25	1,0	37	1,5	9	0,4	9	0,4
Funds	managerial posts	162	131	80,9	28	17,3	0	0,0	0	0,0	2	1,2	1	0,6	0	0,0	0	0,0
	non-managerial posts	1408	1166	82,8	183	13,0	2	0,1	4	0,3	21	1,5	23	1,6	1	0,1	8	0,6
	employees at the body	1570	1297	82,6	211	13,4	2	0,1	4	0,3	23	1,5	24	1,5	1	0,1	8	0,5
Centers for Social Work	managerial posts	88	67	76,1	18	20,5	1	1,1	1	1,1	0	0,0	0	0,0	0	0,0	1	1,1
	non-managerial posts	911	710	77,9	138	15,1	12	1,3	16	1,8	12	1,3	10	1,1	4	0,4	9	1,0
	employees at the body	999	777	77,8	156	15,6	13	1,3	17	1,7	12	1,2	10	1,0	4	0,4	10	1,0
Local Self Government Units	managerial posts	578	461	79,8	83	14,4	10	1,7	2	0,3	7	1,2	5	0,9	1	0,2	9	1,6
	non-managerial posts	3830	3080	80,4	534	13,9	72	1,9	34	0,9	55	1,4	25	0,7	7	0,2	23	0,6
	employees at the body	4408	3541	80,3	617	14,0	82	1,9	36	0,8	62	1,4	30	0,7	8	0,2	32	0,7
Penitentiary-correctional and Educational-correctional Institutions	managerial posts	47	36	76,6	10	21,3	0	0,0	0	0,0	1	2,1	0	0,0	0	0,0	0	0,0
	non-managerial posts	731	623	85,2	90	12,3	0	0,0	3	0,4	5	0,7	9	1,2	0	0,0	1	0,1
	employees at the body	778	659	84,7	100	12,9	0	0,0	3	0,4	6	0,8	9	1,2	0	0,0	1	0,1
Independent state bodies	managerial posts	1006	823	81,8	132	13,1	5	0,5	3	0,3	13	1,3	14	1,4	7	0,7	9	0,9
	non-managerial posts	6520	5344	82,0	839	12,9	76	1,2	58	0,9	98	1,5	52	0,8	20	0,3	33	0,5
	employees at the body	7526	6167	81,9	971	12,9	81	1,1	61	0,8	111	1,5	66	0,9	27	0,4	42	0,6
Public enterprises	managerial posts	1006	838	83,3	121	12,0	12	1,2	2	0,2	15	1,5	4	0,4	5	0,5	9	0,9
	non-managerial posts	15354	11891	77,4	1871	12,2	302	2,0	671	4,4	284	1,8	94	0,6	83	0,5	158	1,0
	employees at the body	16360	12729	77,8	1992	12,2	314	1,9	673	4,1	299	1,8	98	0,6	88	0,5	167	1,0
Public Health	managerial posts	2398	1999	83,4	244	10,2	29	1,2	1	0,0	62	2,6	26	1,1	14	0,6	23	1,0
	non-managerial posts	12672	10421	82,2	1431	11,3	164	1,3	147	1,2	253	2,0	81	0,6	53	0,4	122	1,0
	employees at the body	15070	12420	82,4	1675	11,1	193	1,3	148	1,0	315	2,1	107	0,7	67	0,4	145	1,0
Elementary education	managerial posts	378	221	58,5	118	31,2	19	5,0	0	0,0	10	2,6	4	1,1	2	0,5	4	1,1
	non-managerial posts	16114	10439	64,8	4672	29,0	445	2,8	68	0,4	193	1,2	64	0,4	72	0,4	161	1,0
	employees at the body	16492	10660	64,6	4790	29,0	464	2,8	68	0,4	203	1,2	68	0,4	74	0,4	165	1,0
High education	managerial posts	201	148	73,6	42	20,9	3	1,5	0	0,0	4	2,0	3	1,5	0	0,0	1	0,5
	non-managerial posts	7721	5787	75,0	1598	20,7	103	1,3	25	0,3	114	1,5	49	0,6	17	0,2	28	0,4
	employees at the body	7922	5935	74,9	1640	20,7	106	1,3	25	0,3	118	1,5	52	0,7	17	0,2	29	0,4
Higher education	managerial posts	234	157	67,1	62	26,5	3	1,3	0	0,0	8	3,4	4	1,7	2	0,9	2	0,9
	non-managerial posts	1983	1551	78,2	341	17,2	11	0,6	4	0,2	24	1,2	16	0,8	5	0,3	31	1,6
	employees at the body	2217	1708	77,0	403	18,2	14	0,6	4	0,2	32	1,4	20	0,9	7	0,3	33	1,5
Institutions with various activities	managerial posts	245	207	84,5	26	10,6	1	0,4	0	0,0	5	2,0	2	0,8	0	0,0	4	1,6
	non-managerial posts	5659	4794	84,7	509	9,0	75	1,3	40	0,7	124	2,2	53	0,9	20	0,4	44	0,8
	employees at the body	5904	5001	84,7	535	9,1	76	1,3	40	0,7	129	2,2	55	0,9	20	0,3	48	0,8

	managerial posts	8843	7128	80,6	1210	13,7	105	1,2	16	0,2	168	1,9	93	1,1	40	0,5	83	0,9
	non-managerial posts	93260	70751	75,9	16388	17,6	1586	1,7	1288	1,4	1497	1,6	585	0,6	347	0,4	818	0,9
TOTAL	employees at the body	102103	77879	76,3	17598	17,2	1691	1,7	1304	1,3	1665	1,6	678	0,7	387	0,4	901	0,9

Data for comparison	2010	82555	63761	77,2	13966	16,9	1340	1,6	574	0,7	1315	1,6	570	0,7	256	0,3	773	0,9
	2011	102103	77879	76,3	17598	17,2	1691	1,7	1304	1,3	1665	1,6	678	0,7	387	0,4	901	0,9

Note: In a total of 972 institutions which submitted data, in 845 there is not a single Bosniak employee, in 737 not a single Roma employee, in 730 not a single Vlach employee, in 676 not a single Turk employee, in 622 not a single Serbian employee, in 495 not a single Albanian employee and in 32 institutions not a single Macedonian is employed. The Secretariat for Implementation of the Framework Agreement submitted total data which contain a part of the employees recruited upon the advertisements as well.

Data received from higher education were submitted in total on the universities level.

Findings

Although, generally speaking, there is improvement, representation of members of all communities is not on the necessary level yet. This especially refers to the members of non-majority communities.

Adequate and equitable representation principle is not properly implemented in managerial positions.

Recommendations

Complete and proper respect of the adequate and equitable representation principle for the members of all communities, especially at public enterprises.

Intensifying activities for implementation of the adequate and equitable representation principle, for the managerial positions as well, at bodies on local and central level.

POLICE PROCEDURES

Monitoring and overseeing the police officials' activities while performing their duties as members of the Ministry of Interior Affairs, and of the Police as its integral part, is always an area of special importance for the Ombudsman as a protector of the fundamental human freedoms and rights. Certainly, it results from the fact that due to the nature of duties police officers perform, they are entitled to authorizations which, in case overpassed, lead to cruel violation of fundamental citizens' freedoms and rights.

Unfortunately, almost every year the public is disturbed by an event in which a police official was involved. This report year we witnessed an event in which a person was deprived from his life by a police officer, which, once more, illustrated the still existing weaknesses in terms of professionalism and awareness of human rights in the work of police officials.

The fact that the number of complaints referring to the work of police officials in this report year was decreased, did not contribute to the Ombudsman's statement that there is improvement in this segment in terms of human freedoms and rights. After being informed on the event, the Ombudsman addressed via media and on its web site stating that it condemned the murder of the young boy, emphasizing that al-

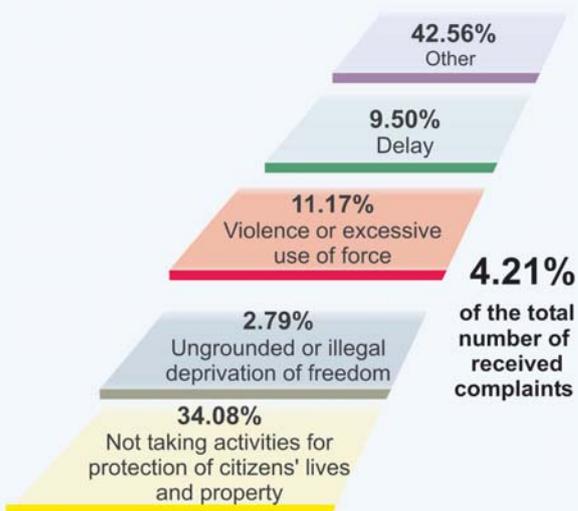
though it was about an individual act, still the consequence that it is a result of unprofessional and irresponsible action by a police officer must not be neglected and that there had been continuous implications to this problem.

The professionalism of police officers, which among other issues means competence, responsibility and sense of fairness, psychological stability and rational judging while performing police duties, needs to be paid special attention in all phases, starting from the recruitment of police officers procedures and further on, during their entire engagement at the Ministry. As long as these principles are not completely respected, there is a risk for our society to be shaken by events of this type, which only contributes to deepen the distrust of citizens in system institutions.

In this report year we also witnessed a spectacular arrest of a leader of a political party which was conducted in a manner which violates the presumption of innocence principle, manner which as it has been indicated by the Ombudsman for years, is not permissible. It is a fact that finding committers of punitive acts, their deprivation from liberty, securing evidence and their bringing before an investigative judge are part of the basic police functions. However, police activities taken at the very act of arresting, especially their transparency with emphasized media presentation, are unnecessary and leave room for suspicion that there is tendency in cases such as this one.

Thus, the Ombudsman, once again feels the need to indicate that while depriving a person from their liberty and taking any other activities, police officers need to respect the physical and psychological integrity of people, and leave it to the judge to determine their responsibility when there is a suspicion for a committed punitive act.

Another typical issue in this report year was the occurrence of abuse of the visa liberalization by citizens of the Republic of Macedonia, who leaving for countries members of the Schengen Agreement, requested asylum from the authorities there. Due to the mass character of this issue, the Republic of Macedonia was seriously reprimanded with the possibility for re-placement on the "black" list. As a result, changes in legislation were processed, regulating border control. The increased border control made certain citizens to complain to the Ombudsman that their right to cross the state border was violated. The procedure for verifying allegations through competent departments at the Ministry of Interior is in progress. The procedure for one case was completely conducted and it was found that the complainant had previously abused the visa-free* regime because he stayed at a country member of the Schengen Agreement for over 90 days, by which he endangered the international relations of the Republic of Macedonia with the countries members of the European Union. In this particular case the Ombudsman informed the complainant that the decision by the authorities



for prohibiting him and his five-member family to leave the country was legitimate because it was supported by the Law on Border Control.

In the rest of the Ombudsman's activities regarding police procedures, it is typical that the number of complaints referring to abuse of force and enforcement means during police procedures is significantly decreased. On the other hand, there is an increase in the number of complaints referring to incorrect behavior by police officers towards citizens, unjustified issued travel authorization by a police officer for tickets for allegedly committed traffic offenses and especially not taking legal measures upon reports by citizens for request-



ed protection of personal and physical integrity from other persons.

However, taking into consideration that there are still events in which the physical and mental integrity of citizens is endangered by the police, the Ombudsman once again emphasizes the need for professionalism in the work of the Internal Control and Professional Standards Sector while investigating cases of abuse or overpassing police authorizations by police officers.



Findings

Omissions in recruitment procedures for police officers and their not quality education during the work relation are reasons for violation of human freedoms and rights of the citizens.

During police procedures, especially during deprivation from liberty procedures there are still cases of violation of the presumption of innocence principle.

Weaknesses can be seen in the work of the Internal Control and Professional Standards Sector in procedures towards police officers for violation of human freedoms and rights by overpassing official authorizations.



Recommendations

Strengthening the criteria for police officers recruitment, who are regularly engaged at special police units.

Detecting omissions and failures of continuous training and taking measures for their elimination so that police officers could perform the assigned duties in a professional and expert manner, by respecting human freedoms and rights.

The Ministry of Interior should inform report submitters whether they have taken activities within their competence or that there is no legal ground for taking police activities, and to advise citizens on their legal rights.

The established cooperation with the Ombudsman should continue, the Internal Control Sector should deepen the investigations on particular cases of violation of human rights, and the decisions should be issued objectively, unbiased and in accordance with the legality and implementation principles, ensuring that every guilty person is punished in accordance with the gravity of the act and the responsibility.

CIVIL STATES AND OTHER INTERIOR ISSUES

Realization of citizens' rights in the area of civil states has a special importance for the personal and social status of every citizen and represents an indicator of how the state realizes its duties towards the citizens.

The Ombudsman continuously monitors the procedures on realization of fundamental freedoms and rights of the citizens such as: acting upon cases referring to citizenship status, issuing official document (passports, ID cards, certificates, residence and stay), confiscation and return of objects and other procedures for which citizens, who had previously addressed the competent bodies, indicated delay.

A general notion is that the number of complaints in this area is decreasing, which implies to improvement of the bodies' work as a public service for the everyday needs of the citizens by issuing documents for confirming various status states.

Data in this report year indicate delay of procedures for realization of rights referring to regulation of citizenship status, residence or stay, issuing official documents (passports, ID cards, certificates) and other administrative procedures upon previously submitted requests to the Ministry of Interior Affairs or other bodies with public mandate.



As a result of the continuous activities and the unobstructed collaboration with the Civil Issues Department at the Ministry of Interior Affairs, especially with the Administrative-Monitoring Issues Sector, the Ombudsman found that gaining citizenship of the Republic of Macedonia procedures indicate an increased number of positively settled requests. However, in certain cases the Ombudsman ascertained delay in these procedures due to insufficient coordination among bodies at the Ministry (Citizenship Department, Security Department,

Foreigners Department, regional police departments) in the procedures for naturalization of applicants. In certain cases the Ombudsman addressed written opinion and implications, and in other cases the regional offices of the Ombudsman, utilizing all available means contacted the Administrative-Monitoring Sector and the Citizenship Department, regardless of the stage the procedure was at.

The Ombudsman finds that by abandoning the right to appeal and the possibility for an unsatisfied party to initiate an administrative procedure immediately, the changes should be in direction of encompassing facilitating conditions for certain categories of citizens, such as respect of commonly accepted norms of the international law.

In terms of issuing the so called biometrical personal documents (passports, ID cards, driving licenses) by the Ministry of Interior Affairs, the Ombudsman's finding from the previous report was confirmed: by delaying (non-issuing within the legal time frame) citizens are restricted in their everyday realization of their freedoms and rights guaranteed by the Constitutions and the laws. Although the Ministry of Interior Affairs took numerous measures for overcoming this problem in the country, the problem with disability to issue passports at diplomatic-consular offices of the state remains, for citizens who are staying abroad for more than six months in continuation.



In terms of freedom of movement and choosing the place of residence in the Republic of Macedonia, the Ombudsman finds that the existing Law on Reporting Residence and Stay contains provisions which do not allow citizens to realize these freedoms completely and that the Law needs to be amended in direction of eliminating the existing limitation character. Regarding the right to leave the territory of the Republic and return to the Republic, the Ombudsman supports the steps taken by the executive authorities for liberalization of this right by visa-liberal traveling and travelling abroad only with an ID card.

This report year as well, the Ombudsman experienced good collaboration practice with the Book-keeping Records Management in the realization of the citizens' rights in the area of records keeping. The work of this body is improved in terms of rapid servicing the citizens with the certificates from the evidence they need and implementation of legal decisions for new record-keeping areas and registry books which will satisfy the needs of the citizens from various ethnic communities.

Unlike with the above mentioned bodies, the Ombudsman, once again did not experience adequate level of cooperation with the body competent for foreigners, i.e. Border Affairs and Migration Department at the Ministry of Interior Affairs.

The Ombudsman's activities upon requests by Ombudsmen from neighboring countries continued as well. These requests mainly referred to realization of rights in records keeping for persons born on the territory of the Republic of Macedonia, who are not able to realize those rights on their own.

Findings

Status rights within the competence of the Ministry of Interior Affairs are still realized with difficulties for the citizens, especially regarding the duration of procedures.

The Border Affairs and Migration Department continued obstructing the Ombudsman's work, the consequences of which were borne by the citizens.

Recommendations

Taking continuous measures for improving and expediting the procedures for gaining status rights for the citizens.

The Ministry of Interior Affairs and the Government of the Republic of Macedonia should take measures in order for the Border Affairs and Migration Department to act in accordance with the legal provisions and not to obstruct the Ombudsman's work.

JUDICIARY

The level of democratic development of a society is not exclusively evaluated by the legal limits provided by the state for realization of citizens' fundamental human freedoms and rights, but also by the functioning of protection mechanisms for these rights in a reasonable time limit, especially before independent and unbiased court organs.

According to the international law, the right to fair trial and the right to a trial in a reasonable time limit are stipulated by several international documents among which is the International Treaty for civil and political rights, which states that every person has the right to a fair trial and

public trial before a competent and unbiased court, established on legal basis. Further on, the European Convention on Protection of Human Rights and Fundamental Freedoms, through the European Court for Human Rights guaranties and protects the right to fair and public trial and foresees the right to a trial in a reasonable time limit for each person, before an independent and unbiased court, established on legal basis.

According to the Law on the Ombudsman, the Ombudsman both protects constitutional and legal citi-



zens' rights and among other issues, it also takes activities and measures for protection from unjustified delay in court procedures or insensible and irresponsible manner of performing duties by court units, without violating the principles of independence of the judicial authorities. The Ombudsman practices these legal competences towards other bodies and departments which are part of the overall judicial system as well, such as the Public Prosecution, the State Attorney, lawyers, executors, notaries, etc.

Besides the voluminous reforms implemented in the judicial system, both in terms of legislation and organization, which created the basis for a more efficient and easier access to justice to a great extent, the citizens and other legal subjects are still facing long court procedures, by which they find difficulties in realization of their right to a trial in a reasonable time limit. Particularly, this is indicated by the fact that every year the number of complaints to the Ombudsman referring to the work of courts is the largest.

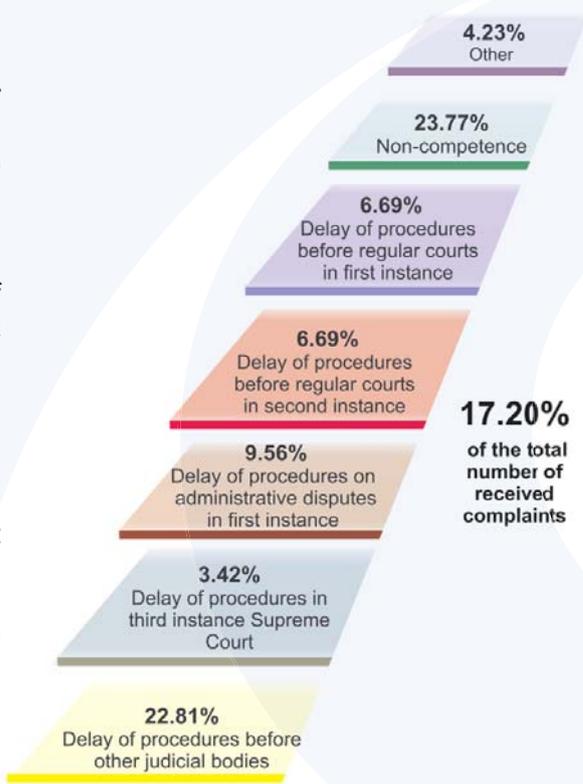
The contents of the complaints to the Ombudsman, as well as the results from the realized procedures, indicates that the majority, or more than 50% of complaints refer exactly to the unjustified delay of court procedure, mainly before first instance civil courts, followed by procedures before the Administrative Court of the Republic of Macedonia, then complaints on delay of procedures before the Supreme Court of the Republic of Macedonia, public prosecutions and other institutions of the judiciary system.

Data from case work demonstrate that the procedures before first instance civil courts still last for several years, that the procedures remain at Administrative Court for 2 to 3 years, although this court does not proceed in contradictory procedures and that the Supreme Court often issues decisions in a period longer than one year.

The most frequent justification by the court officials for this situation, stated not only in the formal reports to the Ombudsman, but also during informal meeting and discussions, are that the cases are processed regularly, according to the rules stipulated in the process laws and the provisions of the Court work rules, and the basic reason is located with the insufficient number of judges and especially the insufficient number of professional court personnel and other administrative court personnel. An additional reason for delay of procedures before the Administrative Court is the problem with lack of submission of acts by bodies and organs of the executive authorities. In these terms, the responsibility is mainly located within bodies and organs for whose administrative acts law suits have been filed, and the most frequently indicated ones are the bodies within the Ministry of Labor and Social Policy and the commissions deciding in the denationalization procedures.

Similar justifications for delay of procedures come from public prosecutions as well, who often locate the responsibility for delay of public prosecution's activities in lack of submission of reply to requests or evidence by bodies they have contacted, mainly bodies within the Ministry of Interior Affairs, and lack of human resources is emphasized as a special reason.

Regardless of the reasons, being they of objective character exclusively or not, the situation with respect of the principle of a trial in a reasonable time limit, consequently access to justice, one of the basic problems for realization of the constitutional and legal rights of the citizens of the Republic of Macedonia remains, which is the reason for the constant increase of requests



for protection of the right to a trial within a reasonable time limit both before the Supreme Court of the Republic of Macedonia and the Human Rights Court in Strasbourg.

Regarding violation of citizens' rights by other officials at institutions or departments in the judicial system, during this year there was a small number of citizens complaining to unprofessional attitude of lawyers as representatives of their rights and interests, but the Ombudsman found delay of procedures here as well by the discipline bodies at the Lawyers' Chamber, as well as bias and protective attitude while issuing decisions against its members.

In this report year there was no complaint on the work of the State Attorney, notaries and mediators. However, the number of cases in which the citizens, besides the right to objection to the court president (for irregularities in the procedure, forced realization of executive court decisions) against acts and activities by executors complained and requested the Ombudsman's protection increased. The complainants mainly had the status of debtors in the procedure, and the most common reason for their addressing the Ombudsman was disrespect or inadequate application of provisions from the Law on Execution, which protects their existential minimum or more precisely, since the executors realized the forced execution on the complete financial income to citizens' bank accounts, their life existence was endangered.

During procedures, the Ombudsman in several occasions found that the complainants' requests were founded, as a result of which it submitted several recommendations to the respective executors, insisting from them to apply the provisions of the Law on Execution, according to which the execution may be limited to the maximum of 1/3 of monthly income of the debtor, except in cases of obligations related to legal alimony. Due to the already established good collaboration in the previous years, the Ombudsman's recommendations were accepted in majority of cases and the irregularities were eliminated.



Findings

Citizens still face difficulties in accessing justice before first instance courts and public prosecutions, and especially before the Administrative Court which violates their right to a trial in a reasonable time limit, guaranteed by the international and national legislation.

One of the reasons for violation of the right to a trial in a reasonable time limit is the insufficient number of human resources, as well as the inadequate working conditions at certain court bodies, especially at both Basic Courts in Skopje, the Basic Public Prosecution in Skopje as well as at the Administrative Court.

Recommendations

Competent state institutions should elaborate the situation in details in terms of the needs for strengthening the personnel capacities and improving the working conditions. Afterwards, measures need to be taken in order to overcome these problems. Only in that way can the conditions be improved in terms of realization of the right to a trial in a reasonable time limit and easy access for the citizens to justice can be ensured.

Officials with public function at state administration, as well as the managing persons at the Administrative Court and the Public Prosecution should make efforts to improve their interrelations in order to provide undisturbed performance of duties and efficient court protection for citizens.

The executors, being public servants, need to improve the mutual communication so that the order of processing forced payment is respected, so that the debtors' rights can be legally protected – especially in terms of their existential minimum and decreasing the number of objections to court instances.

PENITENTIARY – CORRECTIONAL AND EDUCATIONAL-CORRECTIONAL INSTITUTIONS

The Ombudsman during this report year protected the rights of convicted and detained persons at penitentiary-correctional institutions as well, acting both upon complaints and self-initiatives. During these procedures the Ombudsman took measures in direction of adequate application of legislation for serving prison sentence, as well as undisturbed realization of the rights of persons staying at penitentiary-correctional institutions.

Activities upon complaints demonstrated that the majority of complaints were submitted on realization of the right to health protection of the convicted and detained persons. The complaints

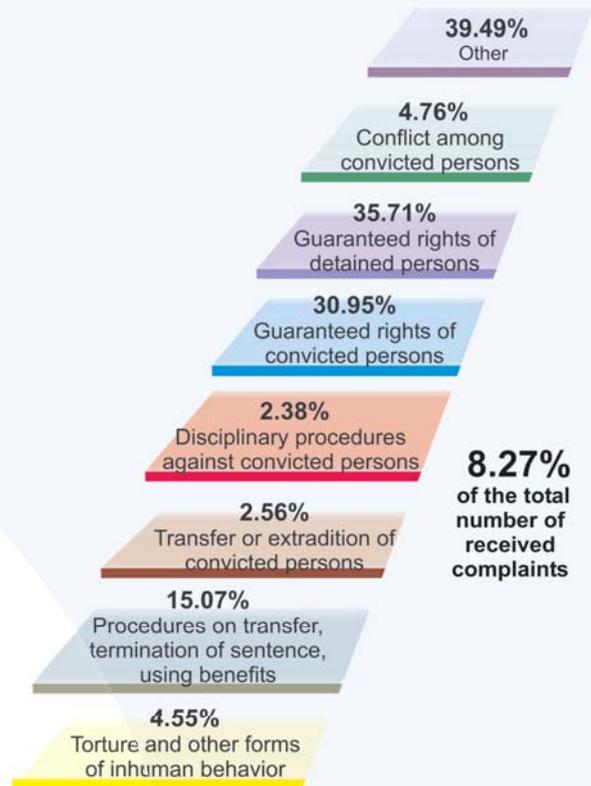
mainly referred to inadequate conditions at prison medical offices for providing adequate medical protection, as well as not directing or late directing of convicted persons to specialized clinics for medical checks by specialists. In those cases the Ombudsman regularly indicated to the administration of the corresponding penitentiary-correctional institution their obligation to apply the provisions from domestic and accepted European standards in the area of health protection of these persons

The problem with overcrowdings in prisons remains and results in other negative issues such as hygiene, accommodation and security problems. In that sense, the Ombudsman, on several occasions, indicated to the competent institutions the necessity for continuous measures for eliminating this issue and decrease of the number of persons in prisons by constructing new objects or possible relocation of convicted persons to other institutions. This problem is particularly visible at the Penitentiary-Correctional Institution Idrizovo where, besides measures taken in the past, the overcrowdings still remains an issue.

The unbearable conditions for the convicted persons at the Closed Wing at the Penitentiary-Correctional Institution Idrizovo generated a strike by a group of convicted persons. The Ombudsman's recommendations for taking measures for urgent settlement of the situation, submitted in a form of information to the Minister of Justice, resulted in immediate measures in terms of expediting and finalizing the construction works, lowering the overcrowdings through dislocation of convicted persons in other departments and increase of health protection care, especially during the strike. These activities led to end of the strike.

This report year as well at the penitentiary-correctional institutions there were cases of suicide attempts and a suicide case which, among other issues, indicates that the control system by departments is not efficient. Thus, a negative feature appears in these cases that the competent institutions, such as the Police and other competent bodies, are informed on suicide cases only orally, via telephone, and not in writing which while taking activities by the competent bodies upon concrete cases might lead to contradictions in ascertaining the real situation, as well as late activities for stating the reasons. In that sense, and in order to eliminate such aspects, the Ombudsman recommended written communication on such cases to be exercised with the competent bodies and institutions.

Unlike previous years, the number of self-initiated procedures on disturbed relations among convicted persons characterized by a large number of conflicts increased in this report year. This is a typical case for the Penitentiary –Correctional Institution Idrizovo. It is an undisputable fact that the engagement by the Security Department is insufficient in terms of a complete and continuous protection of both convicted persons and the institution itself. It is an especially worrying fact that in certain cases the conflicts and disputes



among convicted persons resulted in severe physical injuries. This made a large number of convicted persons to request transfer to other prisons, due to security reasons.

Although certain measures were taken for personnel completion in these institutions this report year, especially in the security departments and resocialization units, the insufficient number of employees still remains a serious problem in the system of serving a prison sentence.

Further on, the insufficient professionalism, competence and education of prison personnel once again resulted in torture over convicted persons, such as the case at the Penitentiary-Correctional Institution Idrizovo. The Ombudsman, acting upon the case, on the basis of a suspicion that security persons at the Penitentiary-Correctional Institutions used excessive force over a convicted person and severely physically injured the person, requested from the Basic Public Prosecution to initiate a procedure for establishing criminal responsibility. The activities taken in the case of search of detained persons at the Skopje prison contribute to the statements that official persons are insufficiently professional and educated as well as that they act in an inhumane and humiliating manner. From the activities taken in this case, omissions in the very procedure were found, meaning different and unequal treatment of detained persons, which created mistrust and personal uncertainty at people deprived from their freedom. Having found this, the Ombudsman submitted opinion to the Sanction Execution Administration and the manager of the Skopje Prison, emphasizing that while taking activities for searching persons or other activities for maintaining the order and discipline, care needs to be taken of protecting of the dignity and the moral and psycho-physical integrity of detained persons.

Besides the numerous weaknesses prevailing at the penitentiary-correctional institutions in terms of accommodation conditions, it was found that there is not adequate heating of the space, especially at the Skopje Prison. This situation has been present for many years, especially during winter when the outside temperatures are low. In that sense, upon the Ombudsman's request, a special Rulebook on heating dynamics was adopted. However, due to the fact that this is a solution for only one institution, the Ombudsman recommended adopting a general regulation on certain standards for heating the rooms, primarily for securing human approach to the health care for persons deprived from their freedom.

Another issue in the past years has been the incomplete legal frame on acting towards detained persons, an issue the Ombudsman constantly indicated to. Thus, during this report year, finally the Rulebook on the Prison Order for serving detention at detention units at prisons was adopted. Also, a rulebook on the manner of using benefits by convicted persons was adopted. The Ombudsman continuously indicated to the need for this rulebook to the Sanction Execution Management as well.

This report year activities were taken upon certain cases on realization of the right to health protection for underage children staying at the Educational-Correctional Center Tetovo. During these cases, it was constantly indicated to the necessity for adequate medical protection through allowing medical checks by specialists for the underage children. The indications were accepted by the prison doctor, but following several visits to this institution located in Veles, it was found that the accommodation conditions are inadequate and not in accordance with the legal and in-



ternationally accepted standards for this category of persons. Also, there is the worrying finding that the educational process at this institution does not function, and neither do other types of programs for underage children, activities which are essential for the success of the resocialization of this category of persons deprived from their freedom.

The Ombudsman also acted upon cases referring to transfer of convicted persons. All complaints submitted to this institution had the aim to expedite the procedures before a state body competent for deciding on transfers. While acting in this area, the Ombudsman indicated to the competent body to implement the provisions of the European Convention on Transferring Convicted Persons and the Law on Criminal Procedure properly. The interventions resulted in issuing adequate decisions and realization of the transfer requests for further serving the prison sentence.



Findings

The accommodation conditions for both convicted and detained persons remain under the standards stipulated by domestic and international legislation.

Adequate personnel lacks at the institution at all levels, and especially at the Education Department. The resocialization process does not provide results due to low level of expertise and professionalism of resocialization and security departments.

The security function at the prisons did not function appropriately, which led to frequent physical violence and fights among convicted persons.

Underage children at the Educational-Correctional Center Tetovo remained in inadequate conditions and are not included in the educational process.



Recommendations

Taking precise measures and activities for construction of new accommodation objects which would satisfy the standards stipulated by domestic and international law.

Personnel recruitment and professional training for the employees at the departments of this institutions, so that they could perform their responsibilities in a professional and expert manner.

Taking activities for strengthening the security system in order to prevent and manage adequately cases of physical violence over and among detained and convicted persons.

Taking precise measures and activities for upgrading the system for executing detention and prison sentence by implementing the European prison rules.

PROPERTY-LEGAL RELATIONS

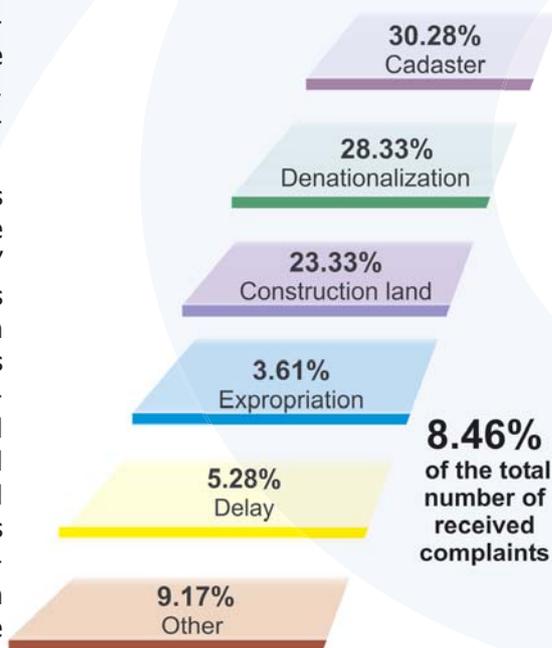
Taking into consideration all efforts by the Republic of Macedonia, during 2011 it was expected that the denationalization process would be finalized, however, the Ombudsman's work resulted in a completely different finding.

Namely, just like many other years back, this report year as well the majority of complaints in the property-legal area referred to realization of citizens' rights on the basis of denationalization. Hence, there is nothing else to be said for this segment of realization of citizens' rights except to repeat once again what has been said many times so far, that the denationalization is endlessly delayed and continuously conducted selectively and without objective application of laws and other provisions, that it will be additionally postponed and cannot be stated with certainty when this process will finally end. This even more if we take into consideration that the number of complaints to the Ombudsman by which citizens request intervention in first instance procedures is not small at all.

The reasons for this situation result from the fact that in certain cases there were no activities taken over a long period of time, and activities for confirming facts last for years without any objective reasons and completely unjustified. At the same time, decisions stating that citizens are entitled to certain compensation (a real compensation, or other type of compensation) are not effectuated for years. In order to illustrate the above, here are a few examples, which are not the only ones:

Seven years are not enough for the Commission on deciding upon denationalization requests with headquarters at the Municipality of Kisela Voda to display the necessary evidence and to make decisions upon denationalization cases, taking into consideration that the municipality has not taken a single action in order to ascertain the real conditions and secure necessary evidence, upon the Ombudsman's intervention initiated by a denationalization complaint by complainants.

By a decision issued by the Minister of Finances, through the Commission on Deciding upon denationalization requests with headquarters at the Municipality of Prilep, during 2007, which is valid and executive, recognized the requesters' right to shares, issued by the Republic of Macedonia. However, this gained right to transfer of ownership these shares and their registration at the Central Depository for Securities, has not been realized yet, with an explanation that additional confirmation of certain facts, evidence etc. is needed.





which take activities and decisions in first instance. Consequently, citizens are dissatisfied from the long duration of the procedure for buying their gardens and hence, they submit complaints to the Ombudsman.

The competent body – Property-Legal Issues Department at the Ministry of Finances (including its organizational units), facing a large number of such requests, did not manage to improve the quality of work at all. Thus, the conclusion that it does not respect the legally stipulated time frame within it should be acted and decided upon each request is a fact. More precisely, for all these cases the Ombudsman found that it is common practice for the procedure to last for years, with exceptions of timely, economical and efficient procedures although, according to the rules for an administrative procedure it should be the other way around.

Actually, the responses, i.e. excuses that there is personnel deficiency and other subjective reasons why certain cases have not been acted upon for years are very common. No responsible person has taken any measures whatsoever for overcoming this situation nor has sanctioned idleness. Another highly concerning issue is that a procedure cannot be expedited by the Ombudsman either. A huge problem in this segment, both for the citizens and the competent bodies is the situation when during the procedure a new cadaster of real estate has entered into force due to which the land, subject to privatization, was labeled with new numbers, registered in another property certificate for another municipality, and the Property-Legal Issues Department used old data for the preparation of the decision.

As a result of this practice, it is impossible for a valid decision for privatization to be processed in cadaster registration and citizens are exposed to additional and not low financial expenses. This certainly is a fault of the state bodies which although obligated while issuing decisions to use data from the cadaster of real estate according to the provisions of the Law on Cadaster of Real Estate, do not apply it. Due to these omissions and irregularities in the implementation of the Law on Privatization and Rent of Construction Land owned by the state, there is a justified basis for questioning the proclaimed aim, this process, which has historic dimensions, to be as successful as possible, to assist the citizens in privatizing their gardens with less efforts and expenses and to be finalized in the scheduled time limit.

At the same time, it must be noted that a large number of citizens, as well as other subjects, are still prevented from submitting complete requests for privatization of construction land because the possibility for buying it had been blocked for them beforehand. The reason is the circumstance that a large number of municipalities have not issued detailed urban plans, and without them, it cannot be confirmed that a certain object for which the construction land is requested to be purchased is registered, nor to measure its surface. Consequently, another fact of great importance is that the denationalization process has not been finalized; the land has not been registered at the cadaster, meaning it has not been displayed and the bearers of the utilization rights have not been determined, as well as a number of other administrative obstacles.

Further on, in the area of property-legal relations referring to realization of the right to privatization of construction land, by the changes of the Law on Privatization and Rent of Construction Land owned by the state, the privatization of construction land owned by the state is undisputedly simplified and the expenses are decreased. However, apart from this formal improvement of conditions for realization of this right, the everyday realization of single requests still represents a bureaucratic labyrinth the citizens still face, which results in final delay of these procedures, primarily by the Department for Property-Legal Issues and its regional offices in the Republic,

It must also be noted that the Property-Legal Rights Administration, along with its organizational units, continues the practice of difficult or no cooperation with the Ombudsman at all, meaning it does not submit reports on activities taken for conducting received requests, proposals, opinions, recommendation or implications on time. In that direction, it is nothing new if we emphasize that the departments for administrative procedure at the Property-Legal Issues Administration in Kisela Voda and Cair have not acted upon the Ombudsman's interventions for years.

In this report year a significant number of complaints refer to the work of the Cadaster of Real Estate Agency and its organizational units in Skopje and in the state. Citizens most frequently expressed their dissatisfaction from the content of certificates rejecting their applications for registering changes in the real estate cadaster or the requests for correcting a mistake which are issued in accordance with the authorization of the Agency by the provisions of the Law on Cadaster of Real Estate and related by-laws.

However, it should be stated that the Agency, the Cadaster of Real Estate Center Skopje and corresponding departments in the state, adequately and timely responded to the Ombudsman's requests and that the cooperation with the Internal Control Sector is on a satisfactory level. Actually, this sector takes adequate measures upon all requests by the Ombudsman for taking activities for insight and legality control of procedures, regarding particular cases and it is always service oriented towards citizens' needs, offering them an explanation on the manner and procedure for the possibilities for realization of a certain particular right.

In terms of securing quality of service for citizens and other subjects, the Ombudsman, except for several cases of disability for settling the problem with large number of citizens in front of the counters, did not find certain serious objections for the work of the Agency and its organizational units. Namely, citizens receive documents by the cadaster office they need on time, certainly after having confirmed that they have paid the administrative and service fee.

On the other hand, the Commission on deciding in administrative procedure in second instance in the area of survey, cadaster and registering of rights to real estate, both in the previous years and in 2011 ignored all interventions by the Ombudsman and has not submitted a single report on activities taken for conduct of single requests, proposals, opinion, recommendation or implications. This represents a flagrant obstruction of the Ombudsman's work and disables citizens to realize their rights.





Findings

Property-legal issues remain a problem for the citizens in realization of their rights due to the labyrinth in procedures on denationalization, privatization, expropriation etc.

Denationalization has been continuously postponed and processed in an unequal and selective manner, without objective implementation of the laws and other legal provisions.

Property-Legal Issues Administration and its organizational units are not service oriented towards realization of citizens' rights and interest while deciding in administrative issues and do not demonstrate quality in their work.

Commissions of the Government of the Republic of Macedonia on deciding in administrative procedures in second instance, ceased working on certain administrative issues although they did not fulfill the legal obligation to finalize work on initiated cases within six months since the day the Law on Establishing a state commission on deciding in administrative procedure and procedure in working relation in second instance entered into force.

The Privatization of construction land, among other issues, blocks the State Commission on Corruption Prevention as well, requesting actions upon requests for privatization of construction land owned by the state not to be taken during the elections period.

The discrepancy between the real and the legal situation remains a huge obstacle for a large number of citizens to privatize construction land they have been using in practice over a long period of time.

The Cadaster of Real Estate Agency is a positive example of cooperation with the Ombudsman.

The Commission on Deciding in Second Instance in the area of survey, cadaster and registration of rights to real estate continuously takes no activities upon the Ombudsman's interventions and demonstrates low quality of work towards citizens and endlessly misses legally provisioned deadlines for closing cases.



Recommendations

Taking necessary measures for finalizing the denationalization process so that the privatization of construction land can be processed in an unobstructed manner.

In order for the quality of work to be elevated, reorganization and equipping the Property-Legal Issues Administration and its units needs to be done, so that citizens' requests can be addressed efficiently and on time.

The procedure for privatization of construction land needs to be facilitated and simplified to a maximum possible level for the benefit of the citizens.

The existing legal vacuum with open cases before the Commissions of the Government of the Republic of Macedonia for deciding in administrative procedure in second instance for certain administrative issues which stopped functioning needs to be overcome immediately. Those Commissions did not fulfill the legal obligation to finalize work on initiated cases within six months since the day the Law on Establishing a State Commission on deciding in administrative procedure and procedure on working relation in second instance entered into force.

By adequate application of the equality and non-discrimination principle, the problem with privatization of construction land for physical and legal subjects needs to be overcome, who have not been registered as bearers of the right to use the land, although directly and actually they have had the possession of the land over a long period of time and have gained it through a contract with the previous owners, which has not been adequately registered.

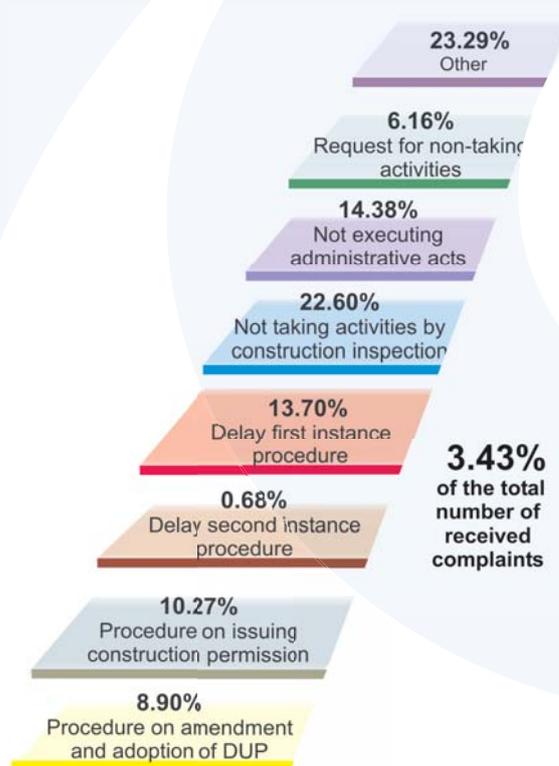
URBAN PLANNING AND CONSTRUCTION

Urban planning and construction are of crucial importance not only for the citizens of the Republic of Macedonia, but for the society in general. Therefore, the basic aim of arranging and humanizing the space is to secure conditions for a better living, work and functioning of all subjects in the society, as the basic prerequisite for raising a healthy family, urban life, clear property – legal relations and prosperity of the society.

The legislation which directly regulates the relations among subjects in planning the space and construction is in direct correlation with other legislative regulations on obligational and other property – legal relations, the relations in the communal and traffic infrastructure, environment etc., so it is one of the reasons for its frequent changes and amendments. The frequent changes of the legislation, although aimed at improving the conditions in the sphere, still create difficulties in its practical implementation not only for the employees at bodies implementing the law, but also for the citizens who are not able to follow the changes and amendments easily, and all that influences the efficiency in realization of citizens' rights in the area of construction.

In order to realize the individual rights in the area of urban planning and construction citizens most often communicate with the local self-government bodies, although sometimes they need services by bodies on central level, public enterprises, other bodies and organizations and certain public services. Precisely because of this, the majority of complaints refer to the local self-government bodies on rights on procedures on obtaining a construction license, removal of illegally constructed objects impinging their interests or annulling the validity of decisions for removal of illegally constructed objects or temporary objects owned or used by the complainants.

In this report year there were cases on which due to illegal activities by local self-government bodies citizens requested assistance from central government bodies in order to protect their rights, because they are obligated to estimate the legality of decisions issued by lower bodies or to monitor their work, but they did not receive a response from them either. In any case, last year in comparison with the previous ones was typical for the significantly decreased number of complaints on activities or lack of activities by bodies responsible for implementation



of regulation in the area of urban planning and construction.

This situation is definitely influenced by the structural reform in the legislation, which was mainly in direction of expediting procedures, certain organizational reforms mainly in the real estate cadaster and the electronic networking among institutions. However, the Ombudsman's impression is that the major reason is adopting the Law on Activities towards Illegally Constructed Objects and its entering into force.

The adoption of this Law and the possibility for arranging construction land fee for the citizens to legalize the illegal construction which could be implemented in the urban plans, according to the Ombudsman are a significant step in the regulation of the piled problems of property – legal and communal type, even problems with public order and peace, given that in the past the illegal objects were the main reason for their disturbance, court procedures etc. Also, by the adoption of this Law the execution of a large number of already issued administrative acts for removal of illegally constructed objects were stopped, which was an additional reason for decreasing the number of complaints to the Ombudsman.

A general impression in the area of urban planning and construction, when it comes to realization of individual citizens' rights, respect of the Ombudsman's recommendations by the local self-government bodies deciding on citizens' rights is that certain improvement in the situation is noticeable.

However, although it is about an autonomous right of the municipal boards, the Ombudsman may, in no case, accept for the primary interest while adopting detailed urban plans to be second to the commercial interest. If part of the fundamental principles on which planning and urbanization is based are arrangement and humanization of space, care must be taken for the accommodation or commercial objects to be adequately positioned and not hanging above streets, the new buildings should not prevent air circulation, and the citizens must be provided with parking space,

children with playgrounds and certainly green surfaces. Taking into consideration that none of this is respected and the human aspect is not considered in this area, the Ombudsman pleads the boards of the local self-government bodies, for the benefit of the public interest, to take into consideration the principles of humanization, regular and functional arrangement of the space and healthy environment in every phase while adopting detailed urban plans.



Findings

There are still cases of illegal and late activities and deciding by competent bodies responsible for implementation of the provisions in the urban planning and construction area.

There is lack of preventive actions by inspection units and there are reactions in a later phase of illegal construction activities.

Detailed urban plans are prepared without considering the citizens' interest, and only the commercial interest is taken into account.

Recommendations

Competent bodies should implement the legal regulation adequately both in terms of deadlines and in terms of legality in deciding.

The preventive activity of inspection units needs to be increased through more frequent insights on the spot in order to prevent illegal construction activities in an early phase.

While preparing and adopting urban plans, the local self-government units should consider the real needs of the citizens, not only for rational use of the space, but also for providing conditions for human life and work for the citizens.

ENVIRONMENT

Defined as the space for all living organisms and natural resources, meaning the space of natural and created values, their relationships and the overall space people live in, having their settlements, goods for common use, industrial and other objects, including the ambient air, soil and waters, the environment is an exclusively complex area, permanently exposed to various influences by numerous societal subjects, mostly people. Hence, the protection and promotion of the environment and nature has been defined as one of the fundamental values of the constitutional order on purpose.

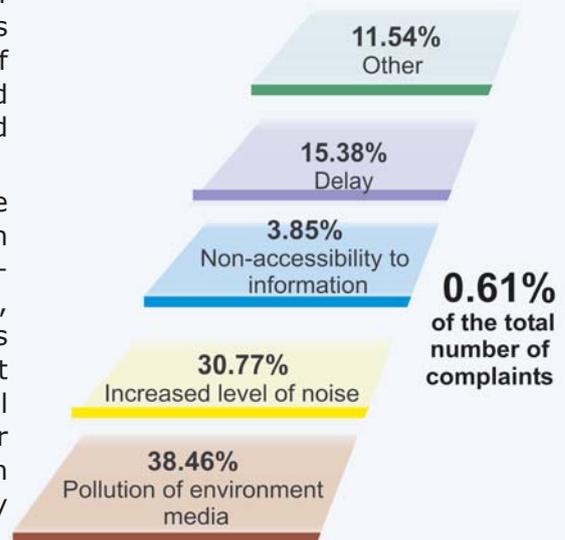
Without doubt the societal development, both globally and on a micro level within the borders of the Republic of Macedonia, cannot and must not be obstructed. It is also an undisputed fact that human influences, while trying to achieve higher profit and more comfortable life have negative impact and create uncompensated damages to the environment to a high extent, which is a serious threat for the survival of people. Accordingly, the balance between the need for a civilizational development and protection of the environment is necessary, which goes in line with the need for raising the citizens' awareness.

If we consider the situation in the Republic of Macedonia, we can immediately state that besides the solid legislation on protection and promotion of all segments of the environment, it cannot be said that citizens breathe fresh air, consume healthy food and clean water.

Regardless of whether we admit it or not, the results from the measurement of the ambient air in Skopje, although the situation does not differ significantly in other cities with big industrial capacities, demonstrates that citizens breathe air which contains enormous concentrations of hazardous material, that a great portion of food consumed is produced on soil containing large concentrations of heavy metals or hazardous chemical substances and that very often many of them drink chemically or bacteriologically contaminated water.

Hence, only normative regulation of protection and promotion of the environment is not sufficient, but its implementation in practice and proper implementation of the sustainable development principle are needed, which means that the environment protection system needs to be based on adopting and implementing policies providing proportional ratio between development needs on the one hand and the need for protection of the environment on the other hand. However, it is known that the majority of polluters (metallurgy capacities, mines and flotation and other processing capacities in primary activity) have not obtained integrated ecological licenses and up to year 2014 they will have to remain victims of various hazardous substances emissions as a result of their activity. Thus, the practical implementation of these principles in comparison with the profit is of little importance for the owners.

The impression is that state institutions of the local authorities competent to implement the legislation seem to be more interested in the normative regulation, monitoring the situation by occasional actions for raising the ecology awareness and registration of conditions. However, there are no investments in infrastructure, as well as fines for polluters, return investment of means gathered for promotion of the environment, construction of sanitary landfills, improvement of situation with collecting communal waste and construction of objects for its recycling,



investments in improvement of the energy efficiency of public objects, its stimulation through subsidies, increase of inspection monitoring for preventive purposes, as well as proper, and not only declaratory acceptance of the Ombudsman's recommendations.

With regards to the situation with protection and realization of single and violations of rights of larger groups of citizens in the area of environment during last year, with the exception of the energetic reaction of the citizens from Veles against the restarting of "Zletovo" lead and zinc smeltery, unfortunately there was an exceptional small number of complaints.



The fact that less than 30 complaints were submitted during whole last year on endangered rights due to increased level of noise, unpleasant odor from waste waters or access to information in the area of environment, a right deriving from the Aarhus Convention and the domestic legislation, as opposed to the total number of registered ones in the institution, is a worrying indicator for the exceptionally low level of awareness in citizens of the Republic of Macedonia, or it might represent lack of awareness for the consequences for health and life in a situation of enormous pollution of air, waters and soil. State and local institutions have the major role to influence this unfavorable situation with the ecological awareness, as well as the other societal subjects.

Findings

There is lack of preventive activities for prevention of risks for pollution of the environment, as well as sanctions for the polluters.

There is lack of adequate activities for education and informing the citizens on their right to healthy environment, as well as on the obligation that they have to protect it.

Recommendations

Increase of preventive activities by inspection units on central and local level aiming at detecting possible risks for pollution of the environment and adequate sanctions for the polluters.

Activities for educating and informing the citizens on the right to healthy environment and their obligation to take care of the environment.

WORKING RELATIONS

Taking into consideration that the realization of the rights from working relation are of existential importance for the citizens, the protection of these rights by the Ombudsman contributes to securing social and material security of the employees. Like in the previous years, this report year there were complaints requesting protection of rights during realization of the employment right, reappointment procedures, procedures on termination of employment, procedures on issuing decisions for using annual leave and other procedures in which employees found violation of their rights from working relations. While monitoring the situation with realization of these rights, it must be inevitably said that the tendency of frivolous and unprofessional activities by employers towards employees continues. Thus, the employees suffer negative consequences only for the sake of preserving their material existence.

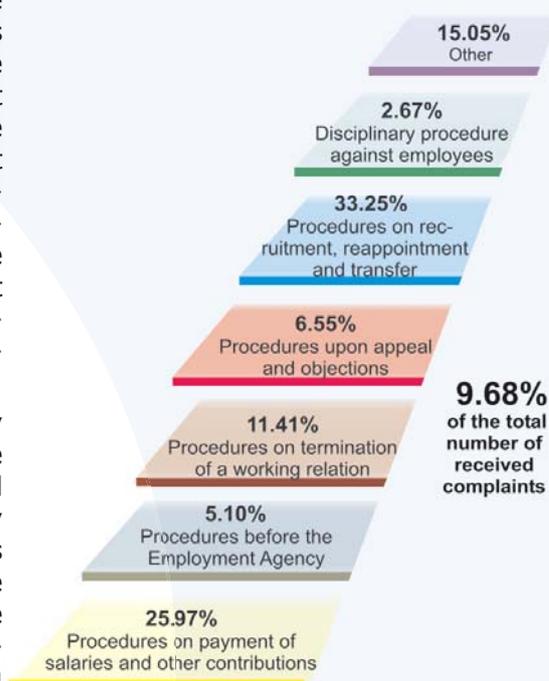
During this report year the number of complaints requesting protection of the right to employment with the status of a state servant decreased, which is due to the transparent procedure conducted by the Administration Agency, as well as to the administrative selection performed by the Agency during candidates' application. When it comes to appointment to a position, there were typical complaints by municipal administration who indicated to violation of rights from a working relation as a result of decisions issued by certain mayors.

An especially typical case is the one of the Mayor of a municipality who issued an authorization for one of the employees, considering it to be an re-appointment act, reappointing the person to perform duties and tasks at a body within the municipality, completely neglecting the fact that the employee had the status of a state servant and is not entitled to performing duties at that body. By performing duties and tasks at the body within the municipality, the employee's status changed illegally, meaning the employee could not be reappointed to a body which is a public enterprise. At the same time, the reappointment may not be done by issuing an authorization, but by an adequate act – reappointment decision and fulfilled legal prerequisites for the reappointment. The Ombudsman indicated to the Mayor the omissions regarding issuing the authorization which violated the right to appointment of the applicant. The Mayor accepted the recommendation and issued a decision for annulling the authorization.

However, although the Mayor of the municipality removed the previously found violation, later on there was an order issued for performing duties for several employees outside the scope of their duties defined by the systematization act. The order by the Mayor was considered as a reappointment act. A request to the competent labor inspector was submitted on this case for taking measures and issuing a decision for eliminating irregularities and omissions. After conducting a survey, the inspector found violation of rights for several employees at the municipal administration by the issuing the order and issued a decision obligating the Mayor to issue a decision for annulling the order. The Mayor acted in accordance with the inspector's decision.

On the other hand, the same Mayor made omissions while issuing salary decisions for the employees at the local fire brigade of the municipality since in the individual salary decisions he referred to the Law on Public Servants which was still in force at that time and he calculated the same level of difficulty for all employees, regardless of duties they performed, without calculating the basic salary and adequate percentage for weekend work. The Ombudsman indicated these omissions to the Mayor and requested taking measures for withdrawal of the illegal decisions. As a result of the indicated omissions, the Mayor did not act upon the newly issued decisions, meaning applied the manner of salary calculation in use until then.

Illegal activities were found towards employees at municipal administration by mayors, in procedures on issuing decisions for financial fines for committed disciplinary offense, without conducting the prescribed procedure for confirming a disciplinary offense. The Ombudsman indicated in both of these cases that in order for a decision for confirming disciplinary responsibility to be conducted, meaning a disciplinary offense, according to the provisions of the Law on State Servants and the Regulations on the manner of conducting a disciplinary procedure for confirming a disciplinary offense, a commission needs to be established on conducting the disciplinary procedure, and the commission is established upon a proposal for initiating a disciplinary procedure. Further on, in order to conduct the procedure, the state servant needs to be informed when



a proposal for a disciplinary procedure is submitted against him/her in order to allow him/her the right to declare his/her attitude and other activities need to be taken in order to be decided whether the disciplinary procedure will be initiated or not. In these particular cases, the mayors did not conduct the prescribed procedure for initiating and conducting a disciplinary procedure at all. They immediately issued decisions for a financial fine on the basis of a disciplinary offense, which is against the Law, and as a result the decisions are regarded as illegal. The Ombudsman's indications were accepted by the mayors, the decisions issued for a financial fine for committed disciplinary offenses were annulled and new disciplinary procedures against the employees were not initiated because there was no ground for that.

Another typical example of activities taken by a mayor of the municipality was the case of issuing decisions on annual leave for several employees at the municipal administration. They were issued in accordance with the needs of the working process and the employees' right to use it according to their family obligations was completely neglected. According to the mayor, for the sake of the working process several employees were supposed to use the annual leave in a period he considered they should use it, without paying attention to the legal obligations. The mayor was indicated that he violated the right to use annual leave of the employees and that annulment of the decisions for annual leave was needed. The Ombudsman's indication was accepted and the decisions were annulled.

There was also a case of a decision issued for termination of the working relationship for an employee at the municipal administration in which the same mayor again, incorrectly applied the material law while issuing the decision, meaning he referred to the provisions of the Law on Working Relations, instead of the Law on Public Servants. The Ombudsman indicated the competent commission at the Administration Agency for issuing a decision for accepting the appeal due to illegal decision. The Commission accepted the indication and the appeal. After that, the mayor issued a decision for annulling the decision on termination of the employment contract and issued a decision for reappointment to an adequate position in accordance with the title gained.

This report year the Ombudsman intervened to the Sanction Execution Administration for application of the provisions of the Law on Public Servants and the provisions of the Law on Sanctions Execution in terms of expediting the procedure for gaining the status of state servants for the employees at the Resocialization Sector at the Penitentiary-Correctional Institution Idrizovo, taking into consideration that a long time elapsed since passing the legal decisions until their realization. After submitting the request to the Administration, the Ombudsman was informed that the procedure for issuing reappointment decisions was initiated for the employees at the Resocialization Sector at the Penitentiary-Correctional Institution Idrizovo and that they gained the status of state servants after the request had been submitted.

It is important to note that this year the number of accepted requests and indications by the Ombudsman to the competent commission at the Administration Agency was higher in terms of protection of rights from working relations for the complainants in any procedure, in comparison with previous years when the Ombudsman's implications were not accepted.

With regards to conducting procedures in accordance with the Law on Working Relations, there were several typical cases. Hence, the Ombudsman intervened to the Ministry of Interior Affairs which had not fulfilled the obligation to employ persons sent to study at the Security Studies School at the Police Academy in Ankara, Republic of Turkey and who completed their studies successfully



within the determined time frame and who had an agreement for that. The Ombudsman requested from the Ministry of Interior Affairs to fulfill this obligation taking into consideration that a long period of time had passed. Following this intervention, these persons realized their right to employment.

Another citizen realized his right to employment following the Ombudsman's intervention. Namely, the citizen was selected to perform duties and tasks at the Technological Industrial Development Zones Management through a legal employment procedure. However, for unknown reasons the person was not registered with the insurance institutions which prevented him from realizing rights from a working relation.

The Ombudsman submitted requests to the Management and the Employment Center in Skopje to clarify the reasons, which were practically nonexistent and the person to be immediately registered. The submitted requests were accepted and the complainant realized his right to employment which he was not able to realize in a period of three months, and not on the basis of his fault. There was another case of an intern employed at Zdravstven Dom Skopje, after conditions for gaining the status of an employed person at a position he had been appointed to, were created. Instead of issuing an adequate decision, he was registered as an intern for 10 months and the salary he received during this period was lower. Since the legal prerequisites were fulfilled, the Ombudsman addressed the need for issuing a decision. However, the Manager did not accept it at first, explaining that the institution had no financial means for that purpose. The Ombudsman indicated that it could not be allowed for this situation to continue forever due to lack of financial means. Consequently, the Manager issued an adequate decision.

In reappointment procedures, this year there were several complaints by employees at the Ministry of Interior who believed that they were illegally appointed without a reason for the reappointment or because they were reappointed to lower positions with lower salaries. The Ministry of Interior Affairs responded to the correspondence for establishing the allegations in the complaints that the reappointments were conducted in accordance with the legal regulations. Taking into consideration that the Ombudsman is not entitled to make meritory decisions, the complainants were advised to initiate court procedures.

There was one complaint by actors and stage workers employed at the Albanian Theatre in Skopje stating their dissatisfaction from unequal approach in terms of their salary in comparison with the salary of their colleagues at the Macedonian National Theatre or the Turkish Theatre, although they performed the same tasks. The Ombudsman found that the Albanian Theatre has its own collective agreement, although it was obligated by the provisions of the Collective Agreement for Culture, on the basis of which there would not have been a possibility for unequal treatment regarding payment of salaries to the actors and stage workers on state level. The Ombudsman submitted an indication to the Theater Manager that an individual collective agreement needed to be issued. It was accepted and a draft proposal for a collective agreement was submitted to the Ministry of Culture.

The Ombudsman took activities upon a complaint by an unemployed person who was offered a position by the Employment Agency Skopje which was not in line with his education. The positions offered were adequate for persons with completed secondary education, but not for persons who have completed university studies and gained the title of graduated art historian. The Ombudsman indicated to the provisions of the Law on Employment and Insurance in case of



unemployment, which clearly state that the body mediating the employment is obligated, among other issues, to direct its activities especially according to the education and previous experience in a certain area as well, the skills, abilities, will, psycho-physical abilities of the unemployed persons, as well as the needs, type and features of the position. Following the indication, the employment body informed that it was a mistake which was corrected afterwards.

When it comes to protection of rights from working relations, it is important that this year the number of complaints by teaching personnel for realization of the right to transformation of the working relation was decreased. It is primarily due to the activities taken by the Ministry of Education and Science and the local self-government in direction of providing means for employment of the teaching personnel at indefinite time, which had been performing duties for more than five years having temporary agreements, which allowed them to qualify for the legal transformation of their working relation. By taking these activities, the employment procedures according to the principals' will was prevented, which used to neglect the right to employment as one of the fundamental human rights.

Special attention needs to be paid to several complaints by citizens who requested protection of their rights from working relation due to physical harassment. It was indicated by the Ombudsman to all employers at state bodies alleged to have mobbed that physical harassment at work is discrimination and that it is illegal. All employers denied the allegations, but in order to prove the truth, besides several provisions on what mobbing is and on protection of the employee in case a court procedure for legal protection is initiated, in the Republic of Macedonia there is no other legislation. Consequently, the Ombudsman finds that this area needs to be regulated by a legal frame.

Although the Ombudsman did not receive any complaints on protection of public servants' rights, the Ombudsman learnt that the passed Law on Public Servants is still not prepared to be implemented in practice because certain institutions and the public service stipulated by this Law do not take any activities in direction of adjusting the systematization acts with the Law on Public Servants. By not adjusting the systematization acts with this Law, some of the institutions and public services practically have not issued single acts on employees for gaining the status of public servants, by which the employees are not able to seek protection of their rights according to the Law. For that reason precisely, the Ombudsman recommends for the institutions and public services to adjust the systematization as soon as possible so that the employees having the status of public servants would be able to realize their rights in an unobstructed manner.

This year, like every other year, the Ombudsman experienced good cooperation with the Labor Sector at the Ministry of Labor and Social Policy who took immediate actions upon requests for expediting the procedure on issuing decisions, as requested by the Ombudsman. However, it should be stated that the Commission on deciding in second instance in the area of working relations at the Government of the Republic of Macedonia, in this report year did not report on the manner of deciding upon an appeal or objection for a single request by the Ombudsman. It is the Commission's obligation to solve all received cases, regardless of the existence of the new state commission because, by delaying the procedures, the complainants experience negative consequences.

Findings

Improper application of legal provisions by employers, due to their subjectivity, which placed the employees in unequal position.

Improper respect of the right to employment because of which the social security of the employment applicant is diminished.

Recommendations

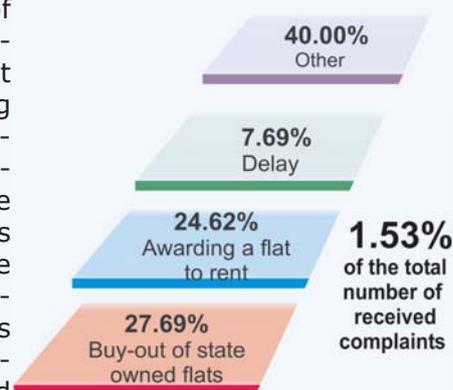
While conducting employment procedures and realization of rights deriving from a working relation, the legal regulations need to be respected properly.

Adjustment of systematization acts by institutions and public services stated in the Law on Public Servants and issuing individual decisions for gained status of public servants.

ACCOMMODATION RELATIONS

In comparison with the previous year, the number of complaints submitted to the Ombudsman in the area of accommodation is significantly decreased. However, significant improvement of the overall situation in the sphere of housing and realization and protection of citizens' rights cannot be declared. Guaranties foreseen by the state through legal regulations which should eventually provide efficient and effective realization and protection of the housing right and other rights in the area of accommodation, do not always correspond to the real situation. The Ombudsman's findings stated in the previous report that the Law on Housing demonstrated numerous defects and imprecise formulations, which makes it inapplicable in certain segments, remain unchanged even in the third year since its adoption.

During the year new changes of the Law on Housing were passed and the Law on Changes and Amendments of the Law on Selling Apartments owned by the state passed, and finally the transformation of the Public Enterprise for Managing Housing and Business Premises of the Republic of Macedonia was executed, which resulted in establishing two joint stock companies. Taking into consideration the fact that citizens were not introduced to the numerous changes in the legislation on time, in certain cases they did not meet the deadlines for submitting requests or did not know which documents were necessary for initiating or positive closing of their requests or, often due to not being informed they addressed their requests to incompetent body or insti-



tution. The changes in the legislation caused inequality in procedures by competent bodies and institutions, which eventually created legal uncertainty in citizens and unequal approach while deciding upon individual requests.

However, in practice the realization of the right to housing and other rights deriving from the accommodation area, almost with no exception are realized in long procedures, in certain cases of several years, so the Ombudsman received complaints by citizens requesting an intervention due to unjustified delay and irregularities of procedures on rent and purchase of apartments owned by the state. A number of these complaints referred to the work of the Commission on Accommodation Issues as the Government of the Republic of Macedonia because the complainants stated that they could not regulate the legal status of the apartments they had been using for years and to the fact the Commission did not reply to the requests for awarding an apartment for rent, especially when it was a case of persons with social risk and other vulnerable groups, who according to the Law on Housing are entitled to an apartment with non-profit rent, meaning subsidized rent.

The Commission submitted identical replies to the Ombudsman and the complainants that the state did not have enough number of apartments at disposal for this category of persons and the citizens were advised to apply for apartments intended for persons with low income, the advertisements for which were announced by the Ministry of Transport and Communications in the course of the year.

This kind of replies only represent transfer of responsibility to another body, in this case the Ministry of Transport and Communications, which conducts the awarding of apartments owned by the state through advertisements, but only to certain categories of persons who do not belong to the group of persons without material means applying for an apartment to be awarded by the state, as well as to liberate them from paying the rent.

This year as well citizens complained to the work of the Ministry of Transport and Communication, to the disability to sign contracts for purchasing the flats they have been using for years, not including an annex to the purchase contracts, non-transfer of the right to use and purchase an apartment from a deceased parent, not prepared calculation on the value of the apartment and other irregularities regarding the purchase of flats owned by the state. A typical example is the one when due to lack of coordination between the Ministry of Transport and Communications and the Joint Stock Company for Construction and Managing Housing and Business Premises of importance for the state, the procedure for purchasing the apartment lasted for more than one year. More precisely, in order for a contract for purchase of an apartment owned by the state to be concluded, the Ministry of Transport and Communication needs to receive the latest calculation of the value of that particular apartment, prepared by the Joint Stock Company. Taking into consideration that both bodies permanently provided ungrounded explanations why the calculation was not prepared, the Ombudsman indicated to both bodies that it was necessary for them to cooperate mutually and to exchange necessary information in order for the purchase contract to be concluded. Following the Ombudsman's indication,



the purchase contract was concluded.

Another change of the legislation caused negative reaction with citizens. The Law on Changing and Amending the Law on Selling Apartments owned by the state, provided that commercial banks would inform in writing the buyers, as well as the State Attorney in case the person buying the apartment who has a contract to buy the apartment in installments, has not paid six consequent monthly installments for payment of the apartment. In such cases, the Law foresees that the Public Attorney shall address a written warning before filing a law suit to the buyer, noting that the pending installments need to be paid in total, and in case it is not done, a court procedure shall be initiated for a unilateral termination of the purchase contract.



The Ombudsman received complaints in which citizens requested an explanation on what the information from commercial banks, meaning the State Attorney mean, i.e. they requested the Ombudsman to prevent the initiation of court procedures for termination of contracts. In those cases the Ombudsman could only inform the complainants that the legislation was changed, explain the course of the procedure to them and advise them to take steps in accordance with the Law provisions and in that sense, to pay the pending installments in total, in order to avoid any undesired consequences, meaning for their purchase contracts not to be terminated.

During this report year the cooperation of the Ombudsman with the Joint Stock Company for Construction and Managing Housing and Business Premises of importance for the State, improved significantly. Except in several cases, the Joint Stock Company demonstrated preparedness to act upon citizens' requests promptly and at the same time to reply in the legally stated time limit to the Ombudsman's requests, suggestions and indications, submitted on grounded requests. Thus, a larger number of cases were positively closed. An exception of unjustified delay was noticed in cases of persons who have illegally moved into apartments awarded by the state for use. The Ombudsman promptly reacted and requested in writing taking immediate measures for continuing the procedures. In these cases as well the Joint Stock Company acted upon the Ombudsman's requests and in that sense the apartments were freed from persons moved in illegally and given to user's occupancy.

Findings

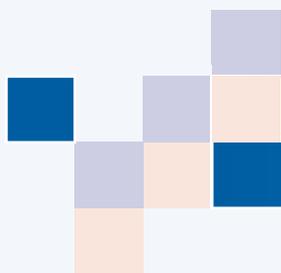
Frequent changes in the legislation referring to accommodation issues created inequality in procedures and deciding upon individual requests by the competent bodies and institutions as well as legal uncertainty in citizens.

Lack of coordination and cooperation among competent bodies and institutions leads to unnecessary delay of procedures and consequently, violation of citizens' rights.

Recommendations

Greater transparency in preparation and adopting laws and changes in legislation in order for the wider public to be included, as well as prompt informing the citizens on new legal solutions.

More effective communication and cooperation of bodies and institutions in order the procedures upon requests submitted by citizens to be expedited.



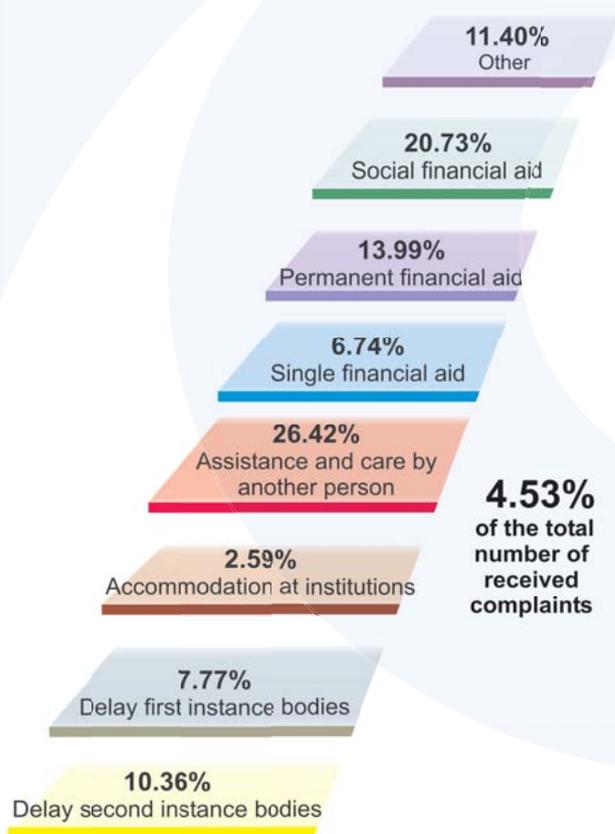
SOCIAL SECURITY AND PROTECTION

The Republic of Macedonia, being a social country has an obligation to provide social protection to its citizens through a system of measures and activities and to create policies for preventing and overcoming social risk in the society which affects a large category of citizens. However, taking into consideration the situation in this area, the Ombudsman finds that the system of social protection is created and functions in a manner which cannot provide adequate care and protection of citizens exposed to social risk.

This statement is mainly due to the late activities taken by the competent bodies upon citizens' requests, irregular ascertaining of the real situation and illegal rejection of requests for realization of a certain type of social assistance and protection. A fact which must not be neglected at this point is the low amount of all types of social aid which does not even provide the minimum prerequisites for a normal life for the socially deprived persons.

An especially vulnerable category are the persons whose health is impaired and they are disable to look after themselves, which is additionally influenced by the fact that requests for realization of compensation for assistance and care by another person are not decided over a long period of time. This is mainly as a result of the slowness of commissions on estimating the need for assistance and care by another person, which in certain cases did not conduct medical checks over a long period of time. This disabled the citizens to realize this right, and there were cases when citizens deceased in the meantime as a result of poor health condition and lack of adequate care. Not taking actions by the commissions hindered the activities of the Ombudsman in protection of these rights as well, because there were no actions upon its requests either.

Taking into consideration that in these cases not only legal deadlines were not met for deciding upon citizens' requests, but sometimes there was no decision even after a year or more, the Ombudsman submitted special information to the Minister of labor and social policy indicating that not taking activities by the commissions leads to violation of the social security principle, as well as hindering of the Ombudsman's work. Following the Ombudsman's interventions, the majority of complainants realized their rights, but the problem with delay of procedures has not been overcome yet.





Another problem socially deprived persons faced was the late payment of certain types of social aid, which was especially emphasized in the case of single financial aid. The Ombudsman found situations of an issued decision for recognizing the right to a single financial aid which was not realized even several months later. Consequently, the Ombudsman indicated that it was about persons in a serious financial crisis and that every delay of payment would additionally complicate their position and that the aim of the aid is lost.

Regarding the right to social financial aid, citizens residing in distant places could not realize this right because the centers for social work postponed the insight on the basis of which the prerequisite for realization of this right would be estimated. The Ombudsman insisted on finding a manner for conducting insights in these families and in the majority of cases the procedures were hastened, and the indications and recommendations were accepted. Thus, citizens realized their rights.

Findings

Late activities by competent commissions on evaluation of the need for assistance and care by another person prevented the realization of this right in fast and efficient procedures, although this is about the most severely endangered category of citizens.

The low amount of all types of social aid does not provide minimum prerequisites for normal life of the socially deprived persons who cannot afford either food or clothes with the social aid, let alone pay electricity or heating bills, water and other communal services, by which their situation worsens even more because they are forced to live without basic life prerequisites.

Recommendations

Improving personnel and other technical solutions for conducting expedient and efficient procedures for realization of the right to aid for assistance and care by another person so that delay in these procedures can be avoided.

Adjustment of the amount of social financial aid in accordance with the life expenses for providing elementary life prerequisites for the most endangered citizens, especially the ones not able to work or to take care of themselves.

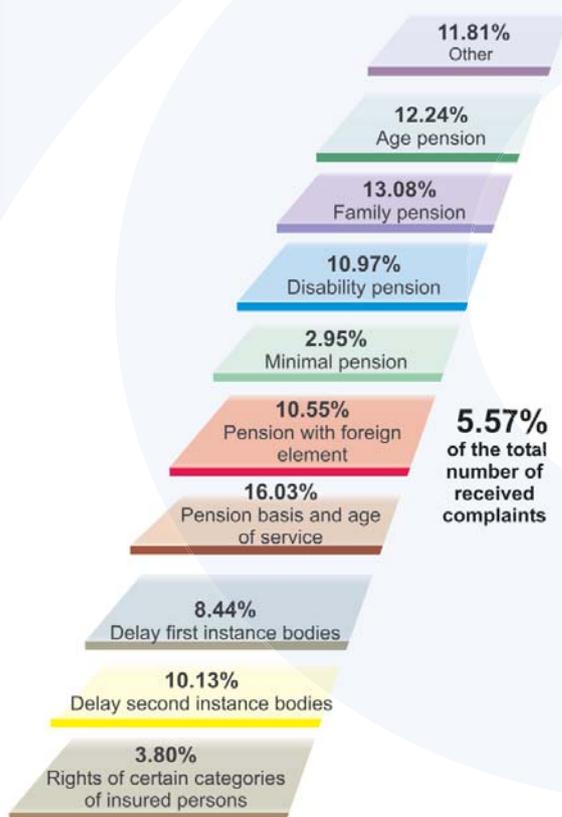
PENSION AND DISABILITY INSURANCE

Rights from pension and disability insurance are ones of the basic rights providing social security and protection for citizens. Taking into consideration that it is about rights of existential importance, it is clear that activities and deciding in these procedures needs to be on time and efficient in order for the basic essence in realization of these rights to be achieved.

Unfortunately, like previous years, this year citizens realized these rights in a slow pace and with difficulties, as a result of which there were cases when they would remain without existence means. It was due to the fact that after termination of the working relation, employees could not realize their right to pension for a long period of time due to the slow pace of work of competent bodies. Consequently the number of complaints in this area, when it is about legal time frames, as well as about realization of rights from pension and disability insurance, is significantly large in this report year.

It can be said that procedures on deciding upon appeals in second instance are the ones with the longest duration. This problem was more visible in the last months of the report year because the competent second instance government commission stopped functioning and the newly established state commission on deciding in second instance did not function. As a result, the number of complaints increased significantly. Finding that a direct violation of citizens' rights was committed, the Ombudsman intervened to competent bodies by submitting written requests and conducting frequent immediate insights by indicating that measures needed to be taken for hastening the procedures. However, it was often the case of not taking measures, especially in second instance procedures.

The majority of complaints in this area referred to violation of rights to realization of a certain type of pension. Unlike previous years, when the number of complaints on realization of the right to a family pension was at minimum, that number significantly increased in this report year. Thus, complaints on realization of this type of pension were the most numerous ones. The above is due to the changes and amendments of the Law on Pension and Disability Insurance, which changed the prerequisites for realization of the right to family



pension, meaning the required age was increased for the spouse/widow/widower, as a result of which a large number of citizens could not realize this right. Taking into consideration that this is a legal prerequisite, the Ombudsman did not have grounds to proceed.

In comparison with the previous years, there was an increase of the number of complaints on realization of the right to age pension, in direction of late and inefficient activities taken by the competent bodies. The Ombudsman indicated that it represented violation of citizens' rights. The interventions mainly had an effect of expediting the procedures, meaning the citizens were enabled to realize their rights. Citizens were mainly prevented from realizing the right to age pension due to unregistered or wrongly registered data at book-keeping evidence, late payment of contributions or late submission of necessary data to the Pension and Disability Insurance Fund by the employers.

Regarding the problem with paying the contributions, the Ombudsman insisted that the Pension and Disability Insurance Fund took all legal measures in order to charge the contributions and secure realization of insured persons' rights. However, there were individual cases of obstacles for charging the contributions due to initiated liquidation procedures or bankruptcy, and in certain cases there was the problem of not registered pension years of employment as a result of lack of submission of required documents – employer's evidence, although the pension and disability contribution fees were paid on time. In other cases it was found that although the contribution fees had been paid, the pension years of employment were not registered because the employer had not paid the interest on late payment. In these cases the Ombudsman intervened for the years of employment to be registered when the contribution fees were paid, indicating that the insured person's rights must not be restricted due to inaccuracy of the employer. Taking into consideration the legislation and the already shaped attitude of the Fund, the Ombudsman found that this problem was overcome. However, there were cases in which the Fund did not register the pension years of employment although the contribution fees were paid but the interest was not paid, and it did not respect the Ombudsman's indications and the citizens could not realize their rights.

The number of complaints on realization of the right to disability pension was considerable. Citizens expressed their dissatisfaction and found that decisions by competent commissions on evaluating work ability were not objective. There were a large number of complaints referring to delay of procedure on confirming the right to disability pension as well, due to the functioning of only one commission, court procedures against members of these commissions and not appointment of new members. Regarding this problem, the Ombudsman indicated to the need of expediting the procedures, realistic evaluation of the real situation and issuing objective opinion, in order for the citizens who have really lost their working ability to be able to realize their right to disability pension.

A special problem citizens complained on was the annulling of the right to disability pension upon a control medical check (legally stipulated obligation). The legislation precisely regulates diseases which are not subject to medical checks and decisions issued on the realized right to disability pension cannot be altered. Thus, the Ombudsman intervened in direction of not an-



nulling the right for persons who have permanently lost their working ability. The procedure was delayed for a number of complaints on realization of the right to disability pension because some cases were transferred to the Ministry of Interior Affairs for insight and processing for being suspected to contain a criminal act – falsified and suspicious document or that the citizens committed corruption in order to realize this right. The Ombudsman intervened at the Ministry of Interior Affairs for the cases in which no grounds for a court procedure was found to be returned to the competent body so that the citizens could continue the initiated procedure on realization of this right.



In this report year citizens faced difficulties in realization of the right to pension on the basis of international and bilateral agreements, especially in realization of the corresponding proportion of the pension or at pre-retirement for years of employment served in the former republics of former SFRY. In order to overcome the problems and expedite the procedures before foreign competent bodies, the Ombudsman insisted for the Fund to address the foreign bodies continuously. Within the limits of its possibilities, the Ombudsman made direct contacts with officials at foreign bodies, which contributed to expediting of the procedure and realization of citizens' rights. However, there were certain cases in which the procedure was delayed due to the fact that citizens did not submit necessary documents for realization of their rights. The Ombudsman informed the citizens which documents should be submitted as well as to which body, and afterwards intervened for a timely decision or payment of the already realized pension.

Regarding realization of pension with a foreign element, it is typical for this report period, like in the previous ones, that delay of procedures was mainly due to settlement of damage claims between contracting countries. In order to realize the right to pension from other countries, this report year once again the Ombudsman experienced good cooperation with the foreign Ombudsman institutions, especially with the ones from the former Yugoslavian Republics, which led to expediting procedures and realization of citizens' rights in the pension area.

A small number of complaints referred to withholding of a proportion of the pension due to ungrounded payment of pension. There were court decisions for these activities as well. The Ombudsman found that the Fund respects the law and withholds only one third of the pension amount in the majority of cases.

Unlike previous years, this report year the problems connected with the Solidarity fund were overcome, which resulted in a minimal number of complaints on this issue. At the same time, there were complaints on unrealized right to compensation for physical impairments, right to work shorter time, right to being accommodated at a nursing home under rent, right to unpaid lump sum for earlier termination of a working contract by the employer and alike. However, the number of these complaints was small.

The Ombudsman paid due attention to complaints in which citizens requested explanation for certain rights in the area of pension and disability insurance, indicating the adequate provisions regulating certain rights or the possibilities for utilizing the existing mechanism and instruments for protection of their rights.



Findings

Delay of procedures before competent bodies and obstructed cooperation with the Ombudsman leads to slow and inefficient realization of the rights from pension and disability insurance, and violation of the constitutional principle on social security and fairness.

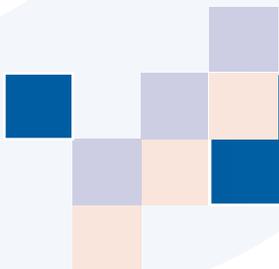
Citizens faced difficulties in realization of the disability pension not only because of subjectivity of competent commissions, but also because of the long duration of their activities as a result of insufficient number of commission members.



Recommendations

Expediting the procedures on citizens' requests, and especially a faster initiation of the State Commission on deciding in second instance's work, because there has not been a body acting upon citizens' appeals for months now.

Completion of the commissions on evaluation of the working ability for the sake of a faster deciding upon citizens' requests and their objective activities, in accordance with the real conditions found regarding the requester's working ability.



HEALTH INSURANCE AND PROTECTION

Every citizen of the Republic of Macedonia is entitled to unobstructed realization of the right to health protection and fulfillment of their obligation to protect and promote their health and the health of the others. However, in practice citizens often face difficulties and problems in realization of this constitutionally guaranteed right. That has a negative impact on both the health of the individual as well as on the entire societal development of the country. This finding derives from the activities of the Ombudsman upon complaints the number of which in this report period, when compared with previous years, is increased.

Complaints mainly requested protection due to unjustified delay of procedures on realization of the rights to health protection and medical insurance. This problem was especially present in the activities by the Ministry of Health with the mandate of a second instance body. Accordingly, the Ombudsman found that competent bodies are not fast enough in taking activities upon citizens' requests this year as well, especially upon appeals, which prevented the citizens from realizing the constitutionally guaranteed right to health protection.

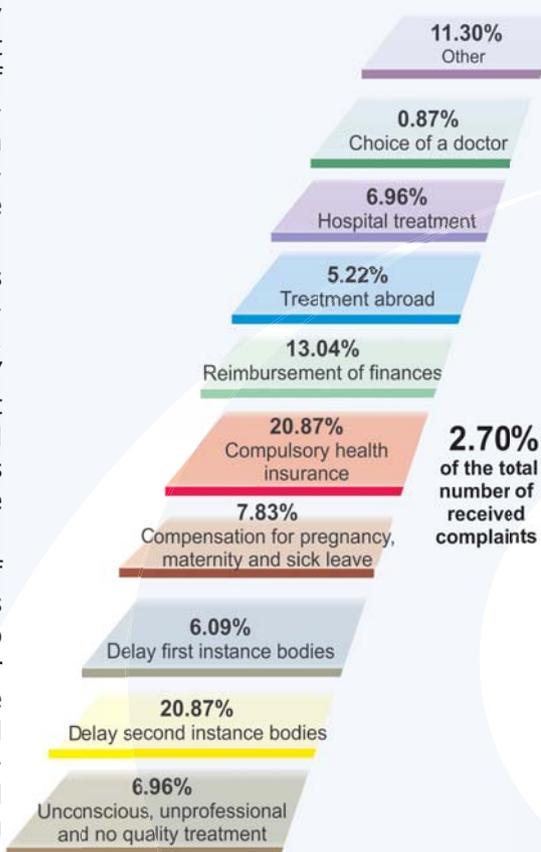
In order to overcome this problem, written and oral requests were continuously submitted, immediate insights were conducted and information to the Ministry was submitted, as well as special reports to the Minister of Health. However, no activities were taken over a longer period of time upon citizens' requests and appeals, nor were there replies to the Ombudsman's requests and interventions. However, the most worrying fact was the absence of decisions on re-

quests and appeals after a whole year, by which citizens were deprived of the possibility to obtain timely health protection. As a result and in order to protect citizens' rights, in a situation of increased number of complaints, the Ombudsman submitted a special report to the Government of the Republic of Macedonia informing on the situation in realization and protection of citizens' rights as well as the disability of the Ombudsman to act upon received complaints.

Following all interventions, in the last months of the report period actions were taken on majority of the Ombudsman's requests and interventions, meaning adequate acts were issued upon citizens' requests and appeals. However, it can be said that the problem has not been overcome yet because still there are numerous undecided cases upon appeals before the Ministry of Health as a second instance body.

Like in the previous years, the majority of complaints in this report year referred to restrictions of the rights from obligatory health insurance due to not paid contribution fee from a previous period or on the basis which has expired. Thus, citizens were not treated as insured persons, although they had paid the current contribution fees on time. The Ombudsman, as done previously, indicated to the Fund that the insured persons are entitled to receiving certificates ("blue cards") because they are paying the current contribution fees. It qualifies them as health insured persons. The Fund should not collect the contribution fees and then not recognize the citizens' rights, meaning treat them as not insured persons who should pay for the medical services on their own. The Ombudsman indicated to the legal possibilities for charging the old debts. However, the Fund remained with the legal provision according to which insured persons who do not pay the contribution fees regularly or they are late for more than 60 days, shall be deprived from the rights from obligatory health insurance, except for the right to emergency medical help. Besides the Ombudsman's indications, the Fund continued restricting the rights for these persons, until the pending debt was settled, and did not issue certificates to them, disabling them to use medical services with the status of insured persons.

A small number of complaints referred to non-recognition of the status of insured persons to citizens who did not have another legal basis, and in accordance with the changes of the legal provisions they have the right to be insured if in the previous calendar year they did not realize a certain amount of income and under other legally prescribed conditions. The Ombudsman intervened in all cases in which citizens fulfilled the prerequisites for recognition of the insured persons' status. The competent bodies took actions upon these interventions. The legal regulation was explained to citizens who did not fulfill the legal requirements and the prerequisites they had to fulfill in order to realize this right.



A number of complaints referred to reimbursement of means, meaning the right to compensation of expenses for treatment at medical institutions. Following the Ombudsman's intervention the citizens who fulfilled the legal prerequisites realized the right. However, the practice by the competent bodies to reject refunding requests for medical services at institutions the Fund has no contract with continued, because the legislation restricted this right again.

At the same time there were complaints referring to the refund right for medications or medical

devices the citizens had purchased with personal money, although they should be covered by the Fund and were to be provided by the medical institutions, especially in cases of hospital treatment. Like in the previous years, citizens had difficulties in realization of these rights and once more faced long procedures or they were refunded a smaller amount than the one they had paid. However, the Ombudsman's interventions mainly resulted in realization of these rights.

Unlike previous years, this year there was a larger number of complaints referring to realization of the right to treatment abroad. Citizens mainly complained on late responses to requests for approving treatments abroad, to ungrounded rejection of requests by competent bodies because they did not take into consideration the accompanied medical documents and to the fact that there are no conditions and prerequisites for treatment of certain diseases in the country. In such cases the Ombudsman intervened for expediting the procedure and adequate estimation of the real situation, indicating that if found that there is no possibility for a treatment in the country, treatment abroad should be provided. A number of citizens realized their right following these interventions.

This year as well the Ombudsman received several complaints by citizens referring to inadequate, unprofessional and not quality treatment. Taking actions upon these complaints the Ombudsman requested revision of the cases. For that purpose, upon the Ombudsman's request special professional commissions were formed to evaluate whether it was a case of careless and unprofessional treatment. In cases the Ombudsman acted upon, although commissions were formed, no omissions in the treatment processes were found, and the Ombudsman, not being capable to estimate the validity of the findings, advised the citizens to initiate court procedures.

In this report year, compared with the previous ones, the number of complaints on violation of the right to salary during absence from work for pregnancy, childbirth and maternity was small. A typical feature of the recognition of this right is delay of procedures, incorrect calculation of the compensation amount and not paying the compensation due to not paid contribution fees. Upon the Ombudsman's interventions, most frequently actions were taken and the citizens realized this right.

There were also complaints on protection of persons with mental disorders accommodated at the Public Medical Institution Psychiatry Hospital – Skopje in Skopje, as well as a complaint on lowered safety due to fights among patients. Following the Ombudsman's interventions, adequate measures were taken for providing security and safety for the patients. In certain complaints citizens indicated to the danger to their lives and health by persons with psychological disorders, as well as to the danger of self-hurting. In such cases persons did not request protection and treatment at an adequate hospital by their own will, but it was requested by their relatives, and there was a case of a person with psychological disorders who did not have



a family. Therefore, this person's neighbors requested from the Ombudsman to intervene to the competent bodies so that these persons could be fostered at adequate medical institutions in order to receive adequate treatment and medical protection. Upon the Ombudsman's interventions, the competent bodies took measures and the persons were fostered.

Findings

Citizens face difficulties and problems while realizing the constitutionally guaranteed right to health protection often, which does not have negative effect on their individual health exclusively, but it negatively influences the overall societal development of the state as well.

The Ministry of Health did not take timely measures upon citizens' appeals this year either, due to which the Ombudsman was forced to take several measures in order to expedite the procedure. A number of cases were solved afterwards.

Recommendations

All possible measures need to be taken for providing equal possibilities for each citizen to realize the right to health protection so that healthy population can be created since that population will contribute to the development of the society in general.

The Ministry of Health should take all possible measures to decide upon appeals in legally stated time limits.

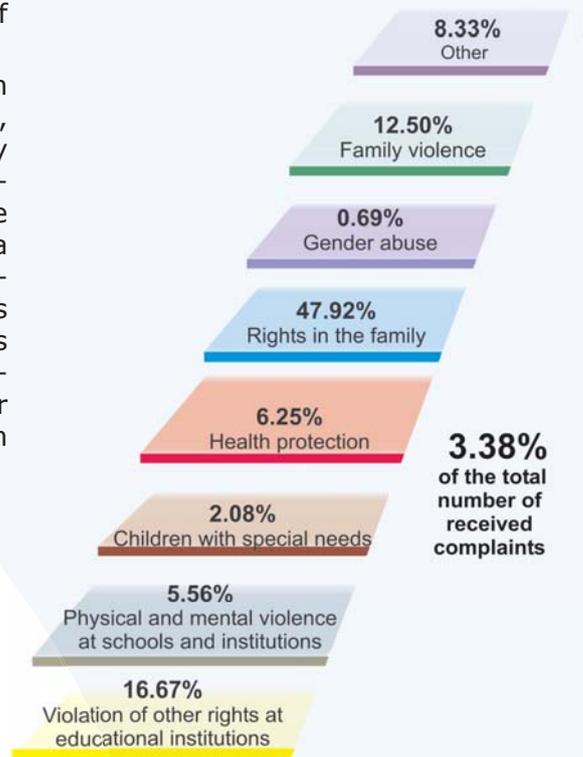
CHILDREN'S RIGHTS

This year once again the Ombudsman faced numerous problems and difficulties in realization and protection of children's rights both within the frames of their families and at fostering institutions and departments.

Namely, there were an increased number of complaints in this report year on protection of children's rights in various areas, and the problems for which intervention was requested from the Ombudsman did not differ from the ones in the previous years. There is one fact which is reoccurring every year, and that is the fact that complaints were exclusively submitted by adults and not by the children. This situation imposes the question whether it is due to the disinterestedness

of children to fight for their rights on their own or it is a consequence of their not sufficient awareness of their rights, thus the protection mechanisms.

The multi annual efforts by the Ombudsman for the children to be treated as subjects with rights, interests and obligations cannot be seen either by the family or by the competent bodies and institutions yet. There are still cases when the adults decide what is best for the children, without giving them a possibility, in accordance with their age and maturity, to express their opinion and attitudes towards all issues and decisions directly affecting them. This indicates to the need to educate parents, and especially officials deciding upon children’s rights in order to include the children in the decision process on their rights.



Family rights

Children’s problems and violation of their rights were once again this year present in the family. Hence, the number of complaints on this issue was the biggest. Marriage conflicts, disagreements between spouses as well as among members of the wider family, had inevitable influence on the children in the family and instead of the central position of the child in both parents’ attention, regardless whether they live together or not, children were most frequently used as the mean for realization of rights and wills of parents, and not rarely were they used for “settling disputes” between parents.

The majority of complaints in this report year were related to the realization of a child’s right to maintain personal contacts with the parent the child does not live with. As a result, the Ombudsman, like in the previous years paid special attention to this issue, especially with regards to issuing and executing decisions by the centers for social work. In that sense, in several cases in which parents could not find an adequate solution and believed that the centers took unprofessional and careless actions for settling this issue, the Ombudsman, through the Ministry of Labor and Social Policy requested by the Social Activities Department to revise the work of the professional team which had acted upon those cases. Following the revision, the Social Activities Department provided adequate recommendations to the centers for overcoming the problems. In certain cases it indicated to the need for taking measures and activities primarily in the best interest of the child.

Simultaneously, the Ombudsman intervened in cases when the parents did not respect the children’s rights and did not fulfill their obligations and duties, requesting proper respect of the Convention on Children’s Rights and the Law on Family and taking adequate measures.

In that sense, the Ombudsman indicated to the parents to respect the child's right to maintain personal contacts with the parent the child does not live with and to take measures to prevent abuse of this right to the child's detriment. The Ombudsman also emphasized that while making decisions, the center should consider the child's opinion as well, in accordance with the child's age and maturity, as well as to inform the child on possible consequences stipulated by the Law on Family.

In several cases referring to the child's right to maintain personal contacts with the parent the child does not live with, due to a long pause between contacts between the child and the parent, there was resistance by the child to contact the parent s/he does not live with. Hence, it was indicated to the centers to invest proper work both with the child and the family in general in order for this situation to be overcome. In that direction there were indications for all available measures to be utilized, monitoring over performance of parental rights to be performed and the parents to be implied to the upbringing and development, and if needed, to be directed alone or with the child to visit an adequate counseling or other medical, social or educational institution.

In the majority of cases in which there were problems with the realization of the right for the child to maintain personal contacts with the parent the child does not live with, upon the Ombudsman's interventions the procedures were finalized successfully, meaning personal contacts were established or re-established between the child and the parent. However, there were cases in which besides the Ombudsman's interventions and the professional work by the centers, due to a late reaction the problem could not be solved.



Regarding the realization of the right to immediate and personal relations between children and parents, the Ombudsman intervened in several cases for children, citizens of the Republic of Macedonia who live abroad with one of their parents, and the other parent lives in the Republic of Macedonia. Taking into consideration the guaranteed rights of the child to maintain contacts with the parent s/he does not live with even in cases like this, the Ombudsman intervened to the competent bodies to take adequate actions according to the Geneva Convention on Civil-Legal aspects of internationally kidnapped children, and in another case there was a procedure for appointing a guardian for the child and issuing a decision by the competent center for social work.

At the same time, the Ombudsman self-initiated a procedure on deportation of two underage children from Sweden to the Republic of Macedonia, although there were no parents or relatives who could foster them, indicating that while taking this measure at that moment, a consideration whether it was of children's best interest was needed. The Ombudsman intervened through the Ombudsmen institutions in Sweden on this case. Following the measure taken, the Ombudsman was informed that the Migration Department of Sweden postponed the deportation to the Republic of Macedonia for a certain period of time and the children were granted stay permission in Sweden.

Family violence

There were frequent complaints this report year on family violence to children as well as adults, and there were several complaints by male complainers having suffered family violence. Acting upon complaints of this type, the Ombudsman took activities before competent bodies for investigating the cases and requested taking measures for protection of family violence victims. However, after having taken measures and investigated the cases, the centers found violation in a small number of cases. In those cases measures were taken for protection of victims of family violence, as well as measures against the person who committed the violence.

Activities taken upon these complaints reveal that the following persons are most frequently exposed to violence: women, children and elderly persons. The Ombudsman found that children from families in which family violence happens are victims regardless of whether they were directly exposed to violence or were witnesses of violence. Hence, the Ombudsman intervened before centers for social work to take protective measures towards the children in those cases as well. Apart from physical violence, which is obvious and can be confirmed in an easier manner, psychological violence is much harder to be confirmed, and the victims of family violence often do not report violence immediately, but after it expands and as a result the consequences are more severe and difficult to be eliminated.

Acting upon complaints referring to family violence the Ombudsman indicated that it is a violation of fundamental human freedoms and rights of every citizen, regardless of gender, status, belonging, age etc. and that prevention and timely reactions may contribute to decreasing its occurrence and moderate the consequences of this type of violence. Simultaneously, the Ombudsman indicated to the need for educating citizens and children in order to gain skills and knowledge on recognizing violence and abuse of rights and freedoms.



Health protection

The Ombudsman, like in the previous years, this report year treated the problem of children addicted to narcotics as well, and in that sense intervened before competent bodies to take measures for protection of this category of children.

Namely, the Ombudsman addressed the Ministry of Health and the Ministry of Labor and Social Policy indicating the need for special focus on this problem by taking all possible legal, administrative, social and educational measures, as well as organizing medical institutions which would provide care and adequate treatment of children addicted to narcotics.

Acting upon this request, the Ministry of Labor and Social Policy informed the Ombudsman that one of the priorities was the opening of a daily center for children addicted to drugs and other psychotropic substances, on the territory of the municipality of Suto Orizari. For that pur-

pose, there were intensive talks with the Ministry of Health, which is competent for medical treatment of citizens and the health system in general.

The Ministry of Health confirmed their knowledge of certain cases of underage children addicted to narcotics, who until then were directed to certain clinics where they would be provided with adequate medical protection, as well as of hospitalized underage children whose medical condition was worsened. However, in a situation of lack of an adequate institution for treatment of these children, they were still treated at the Clinic Center. The Ministry of Health confirmed the Ombudsman's claim that the number of children in high schools in Macedonia abusing drugs is increasing, as well as that the number of children diagnosed with addiction of opiates was increased as well. It was also confirmed that there are no adequate institutions in terms of premises and personnel within the medical institutions in the state, nor written protocols for their treatment, but that efforts are made for creation of prerequisites and possibilities for treatment of these children.



Taking into consideration the increase in the number of narcotics addicts, and especially the increase of children addicts, the Ombudsman recommended foreseeing adequate educational programs at schools in order to inform the children at a very young age on the hazardous effects and consequences the abuse of narcotics has, as well as conducting more frequent systematic medical checks in order to detect addictions at an early stage.

The Ombudsman, among other issues, indicated to the need for the state to prepare a special strategy for this problem, to determine a special treatment for children addicts, as well as to consider possibilities for their accommodation at special institutions. Hence, the Ombudsman emphasized the need for inclusion of all bodies and institutions authorized to take care of children's rights, both in medical and social, education and other aspects.

Referring to health protection of children, the Ombudsman received a complaint by parents who found that due to inadequate treatment, omissions and late medical protection by doctors, their child deceased. In this case, as well as in other cases referring to unprofessional and inadequate treatment, the Ombudsman apart from the immediate insights in the medical files, requested revision of the cases by a specially formed commission on professional insight by the Ministry of Health. However, the professional commissions mainly found no omissions in treatment and activities performed by medical personnel, and taking into consideration that the Ombudsman is not specialized in evaluating the relevance of these findings, citizens were advised to seek protection in court procedures.

The Ombudsman self-initiated a procedure on changes on the Rulebook on contents and manner of realization of rights and obligations from compulsory health insurance because its provisions stated that in case a child is hospitalized, only the child's mother can accompany the child. The Ombudsman recommended the Management Board of the Health Insurance Fund of Macedonia to change and amend the Rulebook by allowing both parents to accompany a hospitalized child, or in reasonable situations another family member. Immediate activities were taken upon this recommendation and the provision of the Rulebook was changed, in accordance with the Ombudsman's indications.

Children with special needs and special marginalized groups of children

The Ombudsman continued monitoring the situation with the rights of children/persons with special needs this report year as well. A small number of complaints were received in this area and they mainly referred to inclusion of children in obligatory education processes, as well as to the conditions in special schools.

Namely, the Ombudsman addressed the Association for Development of the Roma Community "Sumnal" as a reaction to the information that a large number of children from the Roma community were enrolled at schools/classes for children with special needs, without a previous categorization by a professional commission, meaning the children were enrolled upon parents' requests or other reasons.

The Association was informed that after the European Report Against Racial Discrimination in 2010 included a note that in the Republic of Macedonia a large number of children, especially children from the Roma community, attended schools for children with special needs although not categorized as such, the Ombudsman visited several special schools in the country and prepared information with findings and recommendations which was submitted to the Government of the Republic of Macedonia and the competent ministries.

During 2011 as well the Ombudsman paid attention to children with impaired hearing who, although according to the Law on Health Insurance should be liberated from participating in expenses, were charged with 20% participation fee by the Health Insurance Fund on the basis of treatment abroad, although those children had adequate certificates on their health condition. The Ombudsman informed the Minister of Health on this problem. A reply was received that the Ministry takes into consideration the problems children with impaired hearing face, as well as the disability to receive the necessary medical service at a corresponding clinic due to lack of cochlear implants. Due to this it was requested by the Management Board of the Fund to provide that kind of implants at the Otorhinolaryngology Clinic – Skopje. Afterwards a number of children waiting for the implants, underwent the implantation procedure. The Ombudsman intervened upon individual complaints by parents of children with impaired hearing.

After learning that Roma families accommodated at the children's holiday resort "Ljubanci" were left without adequate medical care and therapy, and they faced health problems and there were children among them, the Ombudsman self-initiated a procedure and conducted an insight at the resort. The insight revealed that the information on lack of adequate medical protection for these families of every kind was correct.

Namely, besides lack of adequate medical protection for these families, children were not provided with the opportunity to attend educational institutions, and it was also found that a number of those persons do not possess personal identification documents. In order to overcome the situation, the Ombudsman addressed the Ministry of Labor and Social Policy and the Ministry of Education and Science and requested taking precise measures regarding medical condition of these persons and measures for inclusion of the children in educational process, as well as providing adequate social and psychological support for these families, legal assistance, as well as



activities for solving the problem with their personal identification documents.

Following the Ombudsman's reaction, the Ministry of Labor and Social Policy confirmed the need for improvement of social protection for this group of socially excluded persons. A Decision on establishing a Homeless Center was adopted at a Government session which would operate under direct control of the Public Institution Inter-municipal center for Social Works of the city of Skopje. The Ombudsman was informed that financial means were also provided for purchasing necessary medications and those measures were to be taken for inclusion of the children in the educational process.

Referring to rights of children with special needs, the Ombudsman intervened upon a complaint by mothers of children with special needs from Tetovo who requested engagement of an Albanian defectologist for the needs of their children, meaning institutional support. The Ombudsman addressed the Municipality of Tetovo and after finding that the Municipality had requested allocation of financial means for employment of defectologists to work with children with special needs from the Albanian community, it continued the procedure before the Ministry of Education and Science. Taking activities for undisturbed realization of the right to education of 54 children with special needs from the Albanian community, within the frames of the regular education system in the municipality, is expected.

The Ombudsman paid special attention to the children in the streets, having in mind that this is an exceptionally vulnerable group, constantly exposed to risk of every kind and violation of their rights. The Ombudsman finds that these children should be specially treated and that the state should provide special care and protection, as well as preventive activities in order to lower the risk for these children to become delinquents and subjects of abuse and exploitation.

In order to ascertain the real situation with this category of children, the Ombudsman initiated a research and requested data by all centers for social work in the country. Data received revealed that the problem with the children in the streets is becoming more and more accurate and present and that according to the estimation by the Ministry of Labor and Social Policy, the number of children in the streets is around 1000, as well as that 95% of those children are from the Roma community. It was also found that enforcement is one of the main reasons for labor exploitation of this category of children, data received by the centers for social work indicated that only 9 of them register these children. These centers have registered a total of 710 children in the streets. However, this number is not a precise one because all children spending the day in the streets have not been registered. Data received also indicates that there are children who come from other places. The majority of children in the streets, according to data received by the centers of social work are registered in: Skopje, Bitola and Kicevo. According to the centers, the majority of registered children are beggars, i.e. 75% of children beg, while the other 25% of children clean car windows at intersections and similar activities.

Out of the total number of registered children in the streets, only 17% of them realize the right to education. This data indicates the high degree of illiteracy in children, which is stated as one of the reasons why children end up in the streets and succumb to this kind of economy exploitation by begging. The inclusion of these children in the educational process is hindered or disabled because a large percentage of them, more precisely 37% of the total number of registered children in the streets, have not been registered at the birth record keeping, thus they are not able to realize the children's rights because formally, they do not exist in the legal system.

Children in the streets are under constant risk. Their life style is a result of several factors, mostly parental negligence, family disorganization and poverty. These reasons lead to a risk for these children to become potential committers of criminal acts. According to data from the centers for social work, about 8.5% of the total number of registered children in the streets has already been registered as committers of criminal acts. All children in the streets have parents and the majority of them live with both parents. Thus, it means that it is exactly the parents who abuse them and force them to stay in the streets and beg, which represents negligence of their parental rights and obligations.

Physical and mental molestation of children at schools and institutions

Taking into consideration that this year the number of complaints on physical and mental molestation of children at schools did not lack, the Ombudsman, in order to decrease the incidence, requested from inspection and other competent bodies to conduct more frequent controls at schools in order to act in a preventive manner for protection of children, as well as to take measures against responsible persons at schools and the attempts to disguise these cases.

What was of a particularly worrying character for the Ombudsman was the information on intolerance among children. Frequently it results in verbal and physical fights, and use of weapons was seen as well, which in certain cases ended with fatal consequences. This situation questions the safety at schools, thus having in mind the events at certain schools, the Ombudsman informed the Government and the Minister of Education and Science on this, requesting from them to consider this problem and find a system and normative solution.

Acting upon the information, the Ministry of Education informed that by the application of the changes in the legislation on elementary and high education, which foresees counseling parents of children causing conflicts at schools, it is expected that these problems will be overcome, as well as that at schools the surveillance has been fortified by engagement of police officers. However, having in mind the fact that we are still witnessing physical fights at schools, the need remains for taking activities by all subjects in the society of interest for the children, such as families and teaching personnel at schools. In that direction, it is of crucial importance that educational programs are conducted for the teaching personnel at schools on the manner of prevention and solving conflicts, and their cooperation with the centers for social work is also necessary.



Violation of other rights at educational institutions

Like in the previous years, this year the Ombudsman visited several elementary and high schools in order to promote the children's rights stipulated by the Convention on Children's Rights and domestic legislation. It was positive to find out that children are aware of their rights in the family and at school, although they are not very skilled in recognizing, and by that they do not recognize violations of those rights, nor they have sufficient knowledge on the manners and mechanisms for their protection. In order to overcome this situation, there is a need for a special school subject in the educational system teaching human freedoms and rights, as well as mechanisms for their protection starting at a very early stage at all education levels.

In order for these aims to be achieved, adequately trained teaching personnel is required who will train children and young adults, direct them towards respecting human rights and en-

courage them to use all possible mechanisms for protection of their rights. According to the Ombudsman it can be achieved by implementing a separate school subject on human freedoms and rights and the protection mechanisms in national and international frames. The Ombudsman informed on the above the following subjects: the Government of the Republic of Macedonia, the Ministry of Education and Science and the

Department for Development and Promotion of Education, recommending consideration of this issue seriously, as well as conducting adequate changes not only in curriculum and contents, but also in textbooks which should adequately and properly introduce children to human rights and freedoms.

During this report year the Ombudsman intervened for late initiation of the academic year at several elementary schools because the parents boycotted classes by not allowing their children to go to school, requesting a possibility for their children to study in their mother tongue. Acting upon these complaints, in order to realize the right to education in their mother tongue, the Ombudsman indicated to the respect of the constitutionally guaranteed right for every child to attend classes in the mother tongue and in that sense recommended creation of prerequisites for achieving this aim. In certain cases in which the school, meaning the local self-government board, made decisions

on introducing classes in the children's mother tongue, the Ombudsman requested from the Ministry of Education and Science to consider the case and if the legally stated conditions were fulfilled, to issue permission for initiation of classes in the corresponding language, as well as for employment of adequate personnel who will realize the classes in the language of the ethnic community. In certain cases these problems were solved, but in cases in which the Ministry of Education did not expose their attitude, the problem has not been solved yet. The Ombudsman informed the Government of the Republic of Macedonia on the number of these cases, requesting from it to take measures for realization of children's right to education in the language of the community they belong to. However, a number of these cases have not been solved yet.

Regarding education rights, the Ombudsman intervened in cases of parents changing place of residence for enrolling students at certain elementary schools. It was indicated to the need for proper respect of the Law on Elementary Education for enrolling children at schools in the area in which they live.

The Ombudsman this year as well intervened in cases for covering the transport expenses for the children. In cases in which legal prerequisites were fulfilled, the Ombudsman's indications on the free elementary and high education qualification was accepted and the students realized their right to free transportation. There were also complaints on providing transportation for citizens travelling from one city to another were neither provided with free transportation nor accommodation at a dormitory. In these cases the Ombudsman intervened for providing either free transportation for these children or their accommodation at dormitories, and in case none of this was possible, another type of accommodation to be provided which would be covered by the state.



Political abuse of children

On the basis of information by media that in the period of the pre-election campaign children at several schools were used for promotion of certain political party's aims by political activists through distributing propaganda party material or through organized lectures at schools, the Ombudsman self-initiated a procedure on protection of children's rights and interests.

For that purpose, the Ombudsman informed the schools where these cases were noticed, as well as the Minister of Education and Science, indicating that the involvement of children in any manner in political campaigns is against the Convention on Children's Rights, according to which, children need to be protected from all types of abuse and manipulations and that according to the Law on Protection of Children and the Law on Elementary Education, political organizing and activities and abuse of children for the purposes of political organizing are prohibited.

Findings

Children's right to maintain regular and quality contacts with the parent they do not live with is still realized with difficulties due to non-implementation of the decisions by the centers for social work and due to their inadequate and inefficient activities.

There is still a need for taking measures for realization and protection of children's rights, and especially children in risk, who are most frequently exposed to abuse and violence.

There is still no progress, besides the permanent indications by the Ombudsman, in educating children on their rights and obligations, gaining knowledge and skills for recognizing violation of rights, as well as in their participation in making decisions concerning the children.

Recommendations

Finding an efficient way of realization of decisions by centers for realization of children's right to maintain contacts with the parent they do not live with. The centers for social work should act in a preventive manner in order to secure realization of this significantly important right of the children and their regular psycho-physical development.

Competent bodies should take all possible measures for protection of children in risk, especially prevention from decreasing their number and abuse prevention.

A special school subject needs to be introduced at all levels of education in order to introduce the children to their rights and obligations, as well as protection mechanisms.

EDUCATION

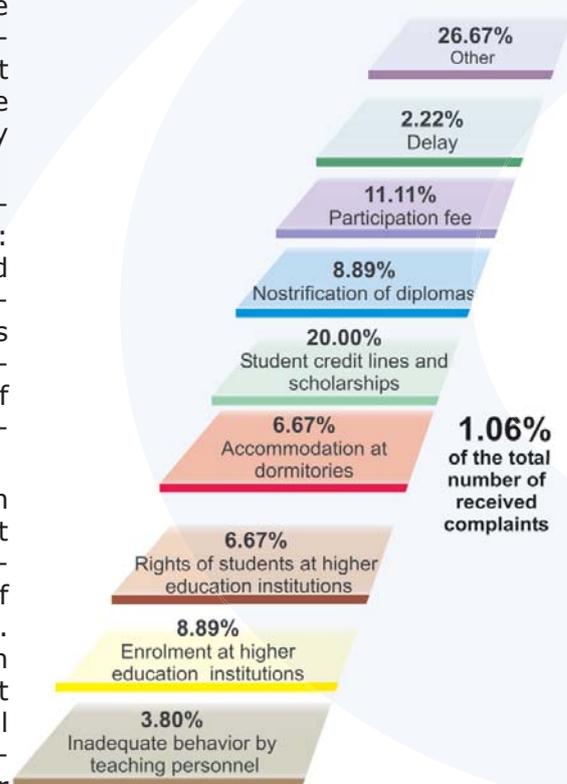
In terms of protection of citizens' rights in the area of education before higher education institutions, no significant changes were seen this report year both in the number of complaints and the nature of problems for which citizens requested protection by the Ombudsman.

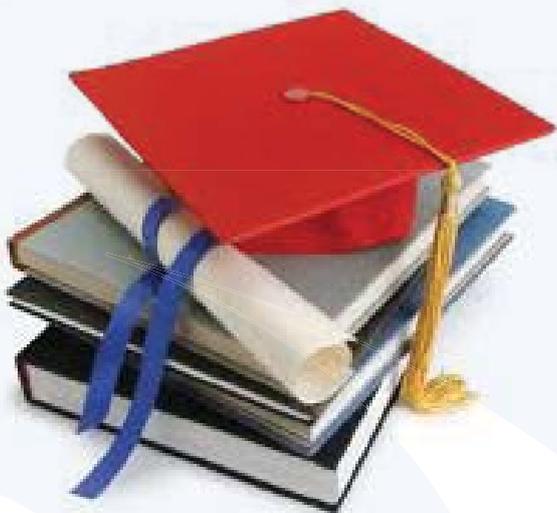
Namely, problems expressed in citizens' complaints may be categorized in several subcategories: realization of the right to university scholarships and loans, delay of procedures on nostrification of diplomas, meaning equalizing and recognizing diplomas issued by foreign university institutions, accommodation in dormitories, enrolment in the first cycle of studies, payment problems, i.e. liberation from paying participation fee etc.

In terms of complaints on the procedure on awarding student scholarships, it was noticed that competent institutions acted in a more timely manner, and complaints mainly referred to rejection of request for realization of the above mentioned right. Investigating the cases individually, the Ombudsman in the majority of cases found that the competent commission refused the candidates who did not fulfill certain criteria stated in the Announcement. Simultaneously, it was found that this year as well, after the scholarship and loans announcement had been published, applications were submitted electronically. Upon receipt, they were considered and a list of persons awarded with a scholarship or a loan was published and the rejected persons were informed on time in order to enable further protection of their rights.

Spouses and other members of the families of security forces members requested protection from the Ombudsman in the field of higher education. They had requested to be liberated from the obligation to pay studying participation fees, but were rejected by the higher education institutions. The Ombudsman found that the higher education institutions acted in accordance with the corresponding Law on Special Rights of Security Forces Members because the Law does not stipulate that a spouse of a security forces member is entitled to realization of special rights in the education filed, meaning has advantage in enrolling a higher education institution and is liberated from paying participation fees. The Law stipulates this right only for the security forces members, the children of a deceased or killed security forces member and for the children of military disabled persons.

The Ombudsman intervened in a case of a mother of children at the age younger than six to be liberated from the obligation to pay participation fees, as stipulated by the Law on Higher





Education, who had been previously obligated by a University to cover studying fees due to late submission of the request, at which time the University had no knowledge that the candidate fulfilled the prerequisites for liberation of paying participation fees.

During this report year, the complaints referring to recognition and nostrification of foreign diplomas in terms of delay of procedures and in several cases, upon the Ombudsman's interventions actions were taken upon them and nostrification was conducted, and in cases in which completion of documents was needed, the complainants were advised to complete the documents in order to continue the procedure before the competent ministry.

During this report year there were complaints by university students accommodated at dormitories who were informed by the dormitory management that they would be dislocated, without any explanation for

the reasons. The procedures upon these complaints ended successfully, meaning the students stayed at the dormitory following the measures the Ombudsman took.

Enrolling the Military Academy was a problem for which protection was requested from the Ombudsman. Namely, the complainants believed that their rights were violated by the Admission Commission for selecting students in the first year at the Military Academy "General Mihailo Apostolski" – Skopje. The Ombudsman found that the Admission Commission gave equal opportunities to all candidates who applied and fulfilled the admission requirements. Consequently, a list of successful candidates was published in the first, second and third enrolment period. The selection of enrolled candidates from the lists was done by the Minister of Defense, during which attention was paid to adequate and equitable representation of communities' members, due to which the Ombudsman did not find grounds for further intervention.

During this report period the Ombudsman intervened upon a citizens' complaint concerning a larger group of citizens, and regarding the disability to continue their education, meaning to enroll doctorate studies in the Republic of Macedonia because diplomas on completed second education cycle – master studies issued by the University in Pristina are not sealed with an apostille stamp, since that kind of stamp is not put on public documents issued in the Republic of Kosovo. Due to the problem with the apostille stamp, citizens who have completed master studies in the Republic of Kosovo, and want to continue with doctorate studies at some of the universities in the Republic of Macedonia, were not able to meet the deadline stated in article 23 of the Law on Changes and Amendments of the Law on Higher Education on applying for gaining a scientific degree of a PhD, meaning they missed the deadline until 31 December, 2011, not bearing the guilt for it.

In order to solve the problem and to provide unobstructed realization of the right to the third cycle of university studies (doctorate studies) and accessibility to higher education for Macedonian and foreign citizens at the higher institutions in the Republic of Macedonia, the Ombudsman addressed the Minister of Education and Science and indicated to the need for expediting the procedure on equalizing and recognizing the university qualification before the competent ministry, meaning to be completed before the deadline for applying. At the same time it was indicated to the need for finding an adequate solution for overcoming problems with equalizing and recognizing qualifications gained in the Republic of Kosovo in terms of lack of an apostolic stamp on the original foreign higher institution certificate. In this context, the Ombudsman proposed considering the possibility for applicants requesting recognition of a foreign higher education certificate to be enabled to apply for enrolment and to inform the universities in the state to accept the applications. The further procedure on enrolment at the corresponding studies cycle shall continue after the candidate submits a decision on equalizing and recognition of a foreign higher education certificate issued by the Ministry of Education and Science. This procedure is still in progress.

The Ombudsman took activities upon complaints referring to election in curriculum-scientific titles. Upon activities taken by the Ombudsman and investigating the case by the State Education Inspectorate, it was found that Faculty bodies acted within the frames of the competences stipulated by the Law on Higher Education and in cases the prerequisites for election were not fulfilled, the curriculum-scientific board issued a decision for rejecting the report and the title election was not performed.

According to the Ombudsman, in order efficient activities upon citizens' complaints to be secured within the legally stated time limits, the collaboration with the Ministry of Education and Science needs to improve, because timely actions upon the Ombudsman's requests and submitting adequate responses influences the efficient and legal activities. In the opposite case, the realization of citizens' rights is hindered. In these terms, although there is a certain improvement of the collaboration with this Ministry and the bodies within its frames, still there is the need for strengthening the cooperation for a more efficient and more effective realization of citizens' rights.



Findings

Universities still do not implement the Law on Higher Education sufficiently in the area of liberation from the obligation for paying participation fees for students.

Departments at the Ministry of Education and Science insufficiently cooperate with the students in realization of the right to a student scholarship and other rights.

Procedures on nostrification or equalizing procedures for foreign diplomas and university qualifications are delayed.

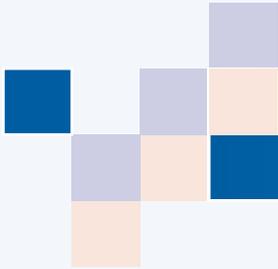


Recommendations

Proper respect of the Law on Higher Education in terms of the right to liberation from the obligation for paying participation fees, meaning realization of the special benefits stated by the University statute.

Higher openness and collaboration between students and departments at the Ministry of Education and Science in realization of the right to student scholarships.

Activities upon requests for nostrification and recognition of foreign diplomas and higher education qualifications should be taken on time.



CONSUMMERS' RIGHTS

The analysis in this report year demonstrates that the tendency of increase of the number of complaints in the area of consumers' rights continues, meaning the number of complaints referring to these rights in this report year is increased for 22% in comparison with previous year. This indicates that the citizens become more and more aware of the violation of their rights as consumers, but it can also serve as an indicator that citizens' rights are more frequently violated

in the area of consuming public services by illegal actions by providers of public services and not providing regular and quality services and products.

The same as last year, the majority of complaints referred to consumption of electricity; however, the number of complaints referring to heating supply and telephone services was not small either, as well as the ones referring to services provided by public communal enterprises, especially water supply and disposal of urban waste material.

Since during last report year a new system for preparation of bills for consumed electricity was introduced, the Ombudsman intervened in direction of including the precise amount of current due bills, the amount of not paid bills in court procedures along with the court number of the law suit and the amount of the interest for late payment. At the same time, it was indicated that pending debt which has not been processed in a law suit is obsolete, and it should not be registered and forced payment must not be conducted. However, besides the Ombudsman's indications and interventions, the bills did not go any significant changes because of which this problem remained of our interest this report year as well, since citizens continued complaining on this issue.

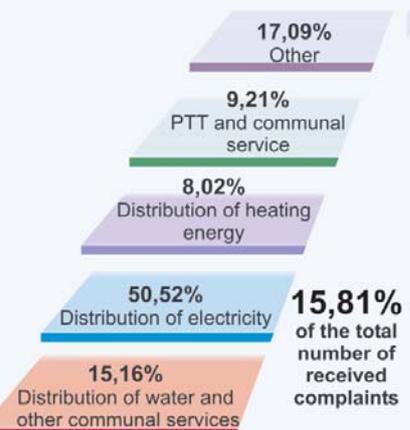
This report year, like last year, an increasing number of citizens complained on accusations for using electricity illegally, besides the change of the measuring devices which are now owned by the electricity provider, the complaints mainly referred to inadequate behavior of official personnel on behalf of the supplier, and according to the consumers, the ungrounded accusation, without any evidence, that they stole electricity.

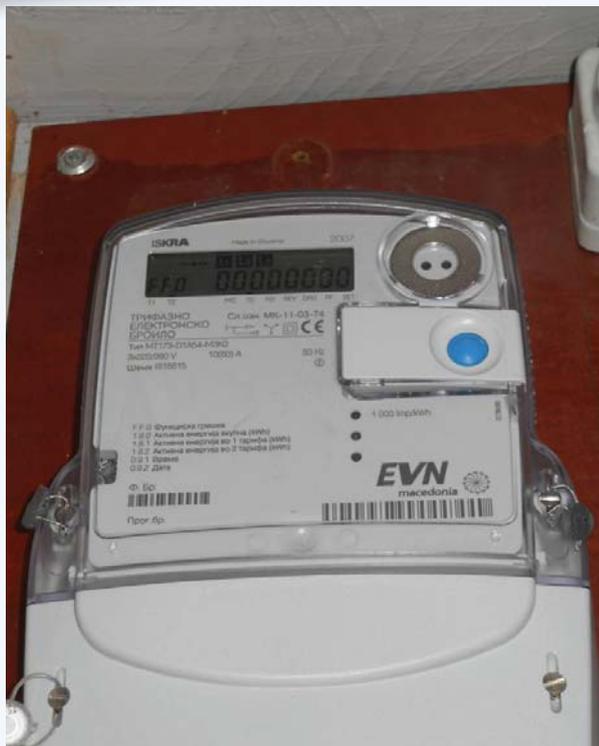
Namely, although the illegal use of electricity represents a criminal offense – stealing, according to the laws and by-laws the supplier has the authorization, without conducting adequate procedure to request payment of the calculated amount and in case that amount is not paid within eight days, the supplier can terminate the electricity supply. The Ombudsman indicated that activities in these cases are inappropriate because they are unilateral and most frequently without initiating a procedure. In that sense, it was found that often without consent by the property owner, official personnel on behalf of the supplier enters the property and certifies illegal use of electricity, and afterwards, without previously confirming that it is a case of stealing electricity, the consumer is requested to pay a certain amount which is calculated according to the provisions regulating this issue. The Ombudsman indicated that in this kind of unilateral activities citizens are deprived of the possibility to prove they are not guilty, and by the fact that no court procedure is conducted, citizens are practically "punished" with an obligation to pay the calculated amount, as well as by being disconnected from the electricity supply network.

For a certain number of cases it was found that although illegal use was ascertained several years ago, no court procedure was initiated and the citizens were still requested to pay the debt for illegal use of electricity. For these cases the Ombudsman requested from the supplier not to indebt the citizens and do delete them from the records, taking into consideration the period passed for prosecuting a criminal act. The indications on these cases were accepted.

On the other hand, taking into consideration that the new measuring devices are owned by the supplier, and in the majority of cases they are installed outside the users' property and there is an unobstructed access to them, the Ombudsman indicated that manners of protection of the devices needs to be found and their regular control and maintaining should be protected from any kind of manipulation by the users or other persons. Also, the Ombudsman found that neither laws nor by-laws (Network rules and Conditions) determine the procedure and evidence for confirming the facts of illegal use of electricity, the issue of the right to appeal is not settled and there is no second instance in deciding by an independent body.

One of the problems the Ombudsman found last year was the unequal treatment of the consumers in terms of charging interest for a pending debt because it was found that consumers





who had paid the debt before or after campaigns were charged with interest, unlike consumers who had paid the interest during a campaign. According to the Ombudsman, this is violation of the equality principle, and taking into consideration that the problem was not solved, the Ombudsman continued intervening. Following several pieces of information, a new campaign was launched which enabled the users to sign a contract on the total pending debt, its payment in one or several installments and they were not charged with interest, under conditions stated in the campaign.

In terms of problems with consumption of electricity, the number of complaints in which citizens stated they were indebted to pay bills dating several years back should not be neglected. Citizens stated that those bills were obsolete, and no court procedure for forced payment was initiated on time. The Ombudsman indicated that obsolete bills which have not been processed in a court procedure for forced payment, should be deleted from the evidence and no forced payment measures should be taken, which was accepted by the supplier.

The Ombudsman also found that in certain periods of the year and in even in places where measuring devices are easy to access, they are not read regularly, so consumers are indebted with a lump sum and unreal bills. Due to this, it was indicated that the measuring devices should be read regularly so that the citizens pay the exact amount for the consumed electricity during a month.

There were still cases of late delivery of bills as a result of which interest was charged for late payment, although the reason for the late payment was the late delivery of the bills. The Ombudsman informed the supplier on the above problems, as well as the Post Agency which took certain measures; however, this problem has not been solved yet.

The Ombudsman's work is hindered and the procedures are delayed because in correspondence submitted upon the Ombudsman's requests, the replies are not complete, they do not refer to all questions and because of that insights or additional requests for additional answers are needed. Taking into consideration that the number of complaints referring to the above mentioned problems is increasing, meaning the problems are not solved and remain open, the Ombudsman submitted special information to the Government of the Republic of Macedonia, the Regulatory Commission on Energetics, the Ministry of Economy and the Management Board of "EVN" and requested from each of this entities, within the frames of their authorities, to take measures in order to reconsider the legal and by-legal regulation in order to protect and promote consumers' rights.

A smaller number of complaints were submitted on payment of street lighting fees for places where no street lighting system has been installed. The Ombudsman intervened before municipalities, which are the beneficiaries of this fee, indicating that in case they have not provided or not maintained the street lighting, which is their legal responsibility, they should take a decision to liberate the citizens from paying this fee. A number of the municipalities acted upon the Ombudsman's indications and took measures for installing and regular maintenance of street lighting. Taking into consideration that a number of municipalities did not consider these indications, the Ombudsman recommended the inspection bodies to take measures in order to stop the illegal payment of communal fee on street lighting in places without public lights. The inspection and monitoring bodies acted upon the Ombudsman's indications and protected the citizens from violation of their rights.

Regarding payment of street lighting fee, the Ombudsman received several complaints by citizens who live in collective housing buildings who indicated that they were placed in an unfavorable position because they are charged with the communal fee on lighting twice (and in certain cases several times) – for the individual measuring device and the measuring devices for collective space, hiding places, for the measuring device for heating etc. The provisions of the Law on Communal Fees stipulate that the communal fee for public lighting is paid for every measuring device registered for consumption of electricity per household. According to this legal regulation, the members of tenants' communities do not only pay this fee for their individual household device, but they also pay for every registered measuring device for consumption of electricity in the collective housing building. It means that households pay for this communal fee several times and are placed in an unequal position in comparison with other citizens.

Taking into consideration the above, the Ombudsman submitted information to the Government of the Republic of Macedonia requesting consideration of the possibility for changes and amendments of the Law on Communal Fees, in the part stipulating the communal fee to be paid for every measuring device for consumption of electricity, so that citizens are not obligated to pay the communal fee several times.

Regarding the work of companies providing heating, during this report year there were a large number of complaints because by the introduction of the new methodology for calculating consumption of heating energy and the repeated increase of the price, citizens faced unreal calculations, especially in collective housing buildings, where heating consumption is measured by only one measuring device for all tenants. Hence, due to high bills certain tenants disconnected from the heating network, and some of them built in additional heating devices which they did not report, due to which the distribution of heating energy at active consumers is not real.

At the beginning of the implementation of the new methodology for calculating consumed heating energy the Ombudsman indicated several illogical points in this system, which create a possibility for unrealistic calculation of the amount for each consumer, especially in collective housing buildings and create inequality among consumers – a problem which became even more current by the increase of the heating price. Hence, the Ombudsman finds that citizens are placed in an unfavorable position and their right to pay for the consumed quantity only is restricted.

Taking into consideration such problems, which are primarily to the detriment of the consumers, the Ombudsman finds that until installing individual measuring devices in each apartment, the calculation methodology through a collective measuring device needs to be reconsidered because by the advance payment of bills, the expense for every consumer is not real. In that sense, in order to protect consumers' rights, the Ombudsman submitted special information with a proposal for taking measures by the Government of the Republic of Macedonia, the Regulatory

Commission on Energetics, the Ministry of Economy and the Joint Stock Company "Toplifkacija", for being competent entities on this issue.

Thus, the Ombudsman indicated that the new calculation methodology, which was supposed to be only a temporary solution until installation of individual measuring devices, did not create a possibility for regular calculation of heating energy, as a result of which he requested considering all possibilities and conditions for installation of individual measuring devices at every consumer in order to enable them to pay for the real amount of heating energy consumed individually.

In the complaints on services by public communal enterprises conduct-



ing communal activity – water supply and disposal of urban waste material, citizens complained on high and unreal bills for consumed water, irregular water measuring devices, irregular reading of those devices and lump sum debts, non-installation of water supply connection although the prerequisites were fulfilled etc. There were complaints on indebting citizens to pay water and waste fees, although certain objects do not use or are not connected to the electricity or water supply networks and there is no waste produced there, or for payment of fee for consumed water by a new user, although water had been used by a previous consumer. The Ombudsman's indications on these cases were accepted and the citizens realized their rights.

Regarding services by fixed-line and mobile telephone providers, like in the previous years, citizens mainly complained on high bills or indebting for calls which, according to the complainants, were not realized. A part of the complainants expressed their dissatisfaction with the work of certain providers, especially mobile telephone providers, as well the disability to cancel a contract due to indebting high penalties in case the contract is canceled before the expiry date. In the majority of such cases the Ombudsman requested from the Electronic Communication Agency, as the body competent to perform monitoring and control over the work of these providers, to reconsider the citizens' complaints. A certain number of complainants realized their rights afterwards. A number of complaints referred to installation of telecommunication or other cable devices at citizens' property, without prior owner's consent and without conducting a legally stipulated procedure. Upon these complaints, the Ombudsman intervened in direction of respect of the guaranteed right to property and requested conducting adequate procedures in accordance with the law.

There were also complaints on illegal installation of base stations of mobile providers in settlements without prepared elaborate for protection of the environment and without examination of whether and how much those base stations influence citizens' health and life and the environment as well. The Ombudsman in one such case intervened for a longer period of time to several competent bodies; unfortunately the problem has not been solved yet.

Regarding the work of cable operators and the complaints on change of channels without informing the consumers, as well as in terms of penalties the consumers had to pay in order to cancel the contract, the Ombudsman addressed the Broadcasting Council, the Commission on Competition Protection and the Electronic Communications Agency. Thus, the Ombudsman emphasized that paying penalties is not regulated by law, but every operator regulated them individually, which restricts the citizens' right to freely choose whose services they will use. Consequently, it was requested that every body, within the frames of their legal competences, reconsidered the problem citizens face and took measures, each from their own competence aspect. The replies by the Broadcasting Council and the Commission on Competition Protection, indicate that the basis for their intervention has not been created, and the reply by the Electronic Communications Agency is still expected.

Complaints on paying broadcasting fee did not lack as well. One part of them referred to users who are legally liberated from the obligation to pay this fee, and another part referred to households who were charged for this fee twice. The Ombudsman's indications were accepted on all these complaints and the citizens realized their rights. The Ombudsman received a large number of complaints by subjects who found that did not have a legal obligation to pay the broadcasting fee, especially the communities of tenants which according to the Law on Housing were registered as legal subjects. The Ombudsman addressed the Public Enterprise



“Makedonska Radio Televizija” and the Public Revenues Office informing them on this situation and requested consideration of this issue so that it could be stated whether every legal subject, regardless of the conditions stipulated in the Law on Broadcasting Activity, needs to be charged with broadcasting fee.

In the meantime, the Parliament of the Republic of Macedonia provided authentic interpretation of article 146, paragraph 1, line 3 of the Law on Broadcasting Activity, according to which the broadcasting fee has to be paid by legal subjects and owners of business premises, once the amount for every 20 employees or other persons using the business premises, whereas legal subjects which are not registered according to the Law on Trade Companies, meaning the ones with the status of a legal subject by other laws, are not obligated to pay the broadcasting fee in accordance to this Law. This indicates that tenants’ communities which are not established as legal subjects in accordance with the Law on Trade Companies, should not be paying the broadcasting fee. Thus, the Ombudsman re-addressed the Public Enterprise “Makedonska Radio Televizija” indicating that legal subjects not registered in accordance with the Law on Trade Companies, meaning the ones which gain the status of a legal subject in accordance with other laws, should be deleted from the registration of payers and requested informing the Public Revenues Office that there is no ground for submitting decisions for paying broadcasting fee to these legal subjects. The Ombudsman’s indication was accepted.

According to the work on complaints in the area of consumers’ rights and monitoring the situation in this area, it can be said that this report year, like in the previous ones, the citizens face problems in using public services which directly influences the quality of their life more and more frequently. Hence, the number of citizens, due to difficult social position and disability to pay monthly fees for using public services regularly, request disconnections from these systems and consequently, they are deprived from elementary life requirements.

Findings

A complete liberalization of the market for public products and services has not been achieved yet, and that is the major prerequisite for competition and quality.

Existing laws and by-laws are not of quality, they are inconsistent and do not provide real protection of consumers.

Regulating bodies still lack capacity for realization of their function.

Inaccuracy by competent bodies and institutions within the system contributes to creation of problems which are to the detriment of the consumers.

Unconscientious consumers are an obstacle for the conscientious ones to receive quality products and services on time.

Recommendations

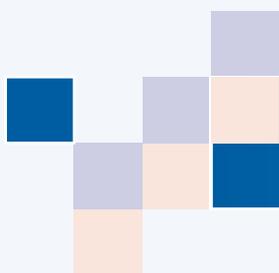
Investing efforts in expediting the market liberalization process for enabling competitions in providing quality of public products and services.

Upgrade of the legal regulation for adequate and unobstructed realization and protection of citizen’s rights as consumers.

Strengthening the capacities of regulatory bodies.

All competent bodies and institutions need to take measures and activities for securing quality and regular products and services.

Unconscientious consumers must not represent a reason for the conscientious ones to suffer damage and limitation of regular and quality distribution of public products and services.



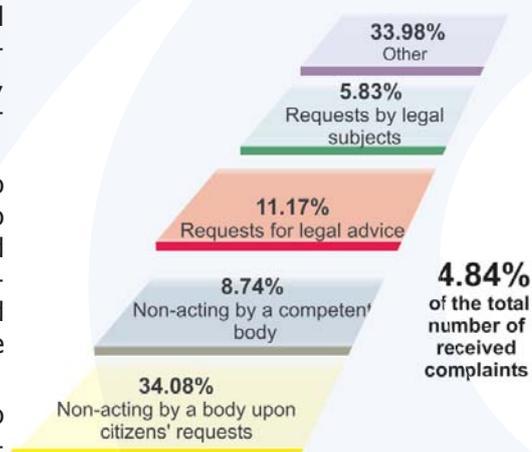
OTHER RIGHTS

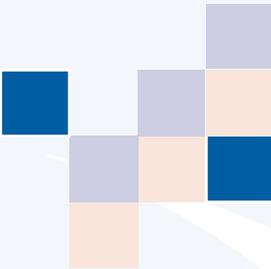
This group encompasses complaints submitted by legal subjects, complaints by citizens on other physical subjects, complaints in which citizens ask for an intervention due to lack of response by responsible bodies, as well as complaints in which citizens request legal advice.

A number of complaints were submitted due to lack of reply by bodies the Ombudsman is competent to act towards, thus the Ombudsman in these cases acted by indicating to the bodies that the citizens have a constitutionally guaranteed right to address the bodies and to receive written replies by them. There was a positive effect in the Ombudsman's activities in this direction.

A considerable number of complaints referred to requests for legal advice. In such cases the Ombudsman advised the citizens on the possible manners for realization of rights, on the possibility to realize a particular right by initiating adequate procedures before state bodies and institutions. The Ombudsman simultaneously educated the citizens in these cases in order to raise the legal awareness in citizens and to strengthen their legal certainty in procedures before competent bodies.

This report year as well was characterized by complaints which are not in the frames of the Ombudsman's work. Such complaints were rejected due to incompetence, explaining the reasons for not taking actions and a legal advice on the manner of realization of the right before responsible legal subjects.





LOCAL SELF GOVERNMENT

Local self-government is an autonomous system of management of local communities and in our country it is one of the fundamental values of the constitutional order. Citizens participate in taking decisions on issues with local importance directly and through representatives in the local self-government units. Local self-government is an organization of government which independently performs competences stated by the Constitution and the Law. The level of development of the local self-government is one of the prerequisites for the existence of democracy and legal state.

The basic tool for promotion of the local self-government is decentralization and civil participation. The reason for initiating decentralization of government is the understanding of the particular needs of local inhabitants, creation of concrete projects meeting the defined needs, which will eventually result in improvement of people's lives. Thus, the success of decentralization is measured through the closeness of the government with the citizens, meaning the level of understanding and meeting their requests.

In 2011 in the Republic of Macedonia constitutional amendments were adopted which paid special attention to the local self-government as a result of the Framework Agreement. One of the major pillars of the Framework Agreement is the development of local self-government. Consequently, in 2002 the Law on Local Self Government was adopted. This Law normatively brings Macedonia closer to the European standards for regulation of this issue. However, besides the fact that the local self-government has been an integral part of the domestic legislation since 1997 – practice unfortunately is still inconsistent with the norms. Although more than six years have passed since the initiation of decentralization process in our state, still the municipalities are facing problems with lack of finances, dependency on central government regarding financial support in areas they have been managing for years now (especially education), technical and personnel problems, in one word – the face incomplete decentralization, hence difficulties in management.

In order to determine the level of success of decentralization process in our state, certain questions need to be answered: do the citizens feel the decentralization as something which is improving their life conditions?; are the procedures simplified, faster and more accessible?; do the citizens influence the local decision-making processes?; are there any citizens initiatives and if yes, do the local authorities respect them?; is the non-discrimination and adequate representation of ethnic communities principle respected in municipal administration and how are the



interests of local minorities respected?

The Ombudsman's findings on the level of realization of citizens' rights before local self-government by areas which have been transferred to the competence of the local self-government, are based on activities upon complaints, self-initiated procedures as well as on activities stipulated in the Work Program.

Urban Planning and Construction

Planning the space is one of the basic competences of the local authorities which they had even before initiation of decentralization process. Passing urban plans is a long lasting process in which features of the land and space are changed, which unfortunately is delayed due to insufficient accuracy and disrespect of legal time limits by the municipal administration. Citizens, according to the law, have the possibility through public display of the plans to express their opinion, notes or proposals. However, in reality, they are rarely accepted by the municipal bodies. According to the Law on Spatial Planning, in order competency and transparency of the process of spatial and urban planning to be secured, a participation body is established in the municipalities which is authorized to transfer citizens' attitudes, opinion and needs in this process, and members of this body are also external eminent professionals in this area, representatives of citizens' associations and citizens residing in the municipalities. In order to implement this legal provision, municipalities have established these participation bodies, but they do not realize their function effectively. This body holds sessions rarely, mostly when it is about incorporating an object of public interest, but even then, it is done only for formal securing transparency and inclusion of citizens.

A small number of complaints were submitted in the area of urban planning and construction this report year, which indicates that citizens do not pay sufficient attention to the manner in which their living space is managed. Citizens react only in case their personal interest is endangered by the urban planning plans, and while doing so they do not demonstrate an interest in the non-realization of a certain detailed urban plan or its change after a long period of time has passed, although, according to the law, the urban plans need to be revised every fifth year since the day of their adoption. The non-existence of a clear legal provision on the time limit in which a certain urban plan can remain in force and no changes are made even after several revisions, restrains citizens' right to unobstructed use of their assets in case the plan stipulates removal of their property. By this, even after 5, 10, 15 years, although citizens have an undisputable property right over their asset, they are not able to manipulate with it freely, meaning to redecorate, adapt or sell their property.

Hence, the Ombudsman reminds that adopting urban plans is aimed at providing arrangement and humanization of the space and because of that they need to be in the function of citizens' needs and must not represent an obstacle in realization of property rights to unobstructed possession and use of the real estate.

In terms of construction issues, the problem with removal of illegally constructed objects was the major problem for citizens this report year as well. The number of complaints in this area is the largest besides passing and entering into force of the Law on Acting towards Illegally Constructed Objects. The Ombudsman found delay of procedures on executing administrative acts for removal of illegal constructions, which resulted in continuation of illegal constructions by investors.

Namely, the urban police or executive departments at municipalities instead of acting in accordance with the Law on Construction and taking adequate measures for executing administrative acts, did not take any actions expecting the Law on Acting towards Illegally Constructed Objects to be adopted. Another excuse for not taking actions was the nonexistence of a legal subject, elected by the municipality which would execute those acts for the illegal constructors,

although there are other competences such as pressing criminal charges against the illegal constructors. The Ombudsman indicated to the competent bodies their obligation to respect and implement the Law on Construction until the Law on Acting towards Illegally Constructed Objects is adopted, which was expected. It was highlighted that the removal of illegal objects contributes to realization and protection of citizens' rights in the area of urban and spatial planning and provides life in an urban environment, as one prerequisite for urban living and regulated property relations. The Ombudsman accented that such activities create legal uncertainty in citizens and a suspicion for selective implementation of laws. Since the Law on Acting towards Illegally Constructed Objects entered into force, all procedures for removing locally important objects were stopped, as well as initiated administrative and court procedures related to them. However, besides this Law, citizens continued requesting the Ombudsman to take actions for prevention from legalization of illegal objects which disturbed their peaceful and unobstructed possession of their property.

On the other hand, there were complaints in which citizens reacted to delay of procedures before the Commissions of Legalization of Objects, as well as to, according to them, the selective application of this Law by local authorities. Regarding complaints on delay of procedures for issuing construction permits, the Ombudsman found that there was lack of actions taken by the municipal administration in legally provisioned time. Also, it was found that in certain municipalities construction permits were issued, without providing the investor with the complete communal infrastructure, although they have paid the fee required for issuing the permit.

The authorized construction inspectors did not act accurately upon citizens' reports on illegal constructions this report year as well. This unconscientious behavior frequently led to a situation in which the constructor would build an illegal object, after which following the inspection, usually initiated by the Ombudsman's intervention, the inspector would find an already finalized construction. Thus, the execution of the re-issued administrative acts for removal was delayed, because the selection of a legal subject to execute those activities by the municipality needed to be conducted. Taking into consideration this reality, the Ombudsman indicated to the necessity for the departments for inspection to strengthen their personnel capacities and material resources in order for the inspection bodies to be really present on the sites, to perform control inspections and to take measures on time.

There was an improvement in the communication between the local self-government bodies and the Ombudsman in this area. The Local authorities did not only reply to the Ombudsman's requests with a high percentage, but the percentage of taking activities upon addressed indications and recommendations is also increased. The Ombudsman welcomes this tendency; however, it will take further activities in order to increase the level of cooperation with the local bodies, especially inspection services additionally.

Education

The Republic of Macedonia is determined to step into direction of contemporary status of the society in which education, culture, science and innovations are the key factors for citizens' well-being and strengthening the national economy.

Taking into consideration this strategic determination, the decentralization in education resulted in redistribution of responsibilities in major educational issues (improvement of quality in education, professional promotion of teaching personnel, financing) on all three levels of the educational system – central, local and school. Decentralization of education has been realized so far in a manner in which the municipalities have been transferred with the competences and authorizations to select school principals, they have a fortified role in the school boards, and they are responsible for maintaining the objects and organizing transport for the students. The financial means for these competences are still transferred to the municipalities from the Budg-

et of the Republic of Macedonia. Means in the Budget of the Republic of Macedonia are allocated through block dotation for 2011, intended for salaries of school personnel, maintenance of objects and transport of students for all elementary and high schools, in places in which they exist.

A problem, as found by the Ombudsman while acting upon complaints in this area, is that the allocated means through block dotation are not sufficient for normal functioning of municipalities in the area of education because after paying the salaries to the employees, there are not enough means remaining for providing free transport for students to their schools, as well as insufficient means for heating the schools. Lacking these means, which are of fundamental importance for undisturbed attendance of the educational process, a very small number of municipalities manage to adjust this lack from their local budgets, and that is sometimes not enough. Thus, a big number of students (especially the ones who live in rural areas) are not able to attend classes, and during winter period, classes are frequently canceled due to lack of heating at schools, which severely violates the right of the students to undisturbed education and continuous attendance of classes.

For several years the Ombudsman has been stating this problem in its annual reports and has been requesting from the state to provide the municipalities with sufficient financial means for this purpose which would correspond with their needs, because the decentralization in this domain is realistically equalized to redistribution of competences and authorizations in election of school principals and participation of the local government at school boards. It certainly does not contribute to progress in the education decentralization process. The Ombudsman also indicated to the need for the municipalities to establish benchmarks and criteria for distribution of means from block dotation among schools on the territory of the municipality, which would provide an objective and transparent distribution of means, also, local authorities rarely, in a non-systematic and inconsistent manner make analysis of the financial condition and the needs of the schools and do not prepare elaborates and plans for rationalization of expenses at schools, which contributes to the overall situation.

Adequate conditions for education of children with special needs have not been created yet at municipalities. From a formally-legal aspect, these children are guaranteed with education based on special curricula depending on the obstacles they face in their psychological and physical development, with an opportunity to enter regular education, in special classes at regulate and special schools. However, in practice these children do not realize completely these rights or face difficulties in their realization. Local authorities do not pay enough attention to their obligation to provide teaching personnel who would provide quality and professional education for this category of children yet. Besides this lack of professional personnel, a majority of municipalities have not provided access to school buildings for physically handicapped children. While taking activities upon a compliant, the Ombudsman found that in the state there are certain areas in which there are no schools in the wider vicinity in which children with special needs could attend classes.

More precisely, in the Municipality of Debar and the settlements in the wider surrounding, the children with special needs can attend classes in the Municipality of Ohrid or in the Municipality of Bitola. Hence, the right to education for these children has been formally secured, but in practice it cannot be realized taking into consideration the dependency and disability to arrive at school on time according to the transportation schedule. In these cases, there is additional burden or incomplete realization of their right to free transportation to school because their parents are forced to transport their children individually, which costs more, the transport compensation is calculated on the basis of public transport and the payment is months late. In this very example, the parents of these children, in order to provide education for their children are forced to leave their home, to temporarily change the place of residence and to live in another municipality, to quit their job, to pay rent which completely disturbs their normal life and brings their existence in question.

Taking into consideration the above, the Ombudsman requests from the local authorities to increase the number of schools which would accept children with special needs in regular education and to pay the transportation compensation on time and it should be realistic to the expenses. The local authorities need to take adequate measures and to secure employment for

professional teams trained to work with children with special needs, as well as for additional training and professional development of the existing teaching personnel at schools. Also, there is a need for lowering the number of students per class in which there are children with special needs, so that conditions for individual work with these children can be provided. The Ombudsman suggests to the local authorities to educate the parents of these children as well, through special programs and projects, on the manner they can help their children to learn the required material and to emphasize the need for regular and good cooperation between parents and schools, which is of interest of these children.

The VIII Amendment of the Constitution of the Republic of Macedonia and the laws in the area of education guarantee the right to the ethnic communities' members to education in their mother tongue, as a warranty for respect of the multi ethnical character of the Macedonian society. In practice the realization of this right, unfortunately depends on the number of members of the ethnic community in the municipality. It is mainly applied for the Albanian community, being the most numerous one in our state, as well as it is applicable for the students from the Turkish ethnic community in municipalities this ethnic community is dominant. The realization of this right is hindered for the members of other ethnic communities mostly due to the small number of students and lack of teaching personnel. This rights is realized in ethnically mixed schools in which curriculum is conducted in two or more languages and represents an additional division factor because in the name of preventing interethnic conflicts, students learning in different languages are divided in shifts or separate buildings. A similar lack of interaction exists among teachers teaching in different languages and students at educational departments at universities.

Taking into consideration this situation, the Ombudsman finds that a much higher awareness for the need for taking precise measures and activities is needed, realization of active policies, primarily ones with educational character by the local authorities which have the major responsibility for securing this right, which would promote the importance and necessity for accepting differences among ethnic communities as a prerequisite for coexistence. In this context, the Ombudsman emphasizes the need for taking such measures and promotional policies regarding Roma persons and children who are the target of the most intensive negative stereotype and social distance by the other children. Unfortunately, in the state there is still segregation of Roma students who, at certain schools, are separated from other students in special classes and the principle of regional enrolment in the educational process is not respected for these children. Thus, in certain municipalities in which the Roma ethnic community is majority such as Bitola and Stip, Roma children enroll only certain schools, regardless whether the school belongs to the region in which there home is located.

Due to this situation, which results in frequent boycotts of the educational process, conflicts among students, even among teachers from different ethnic groups, the Ombudsman insists on promotion of the cultural identity in a multicultural context. The Ombudsman promotes education which has the individual with all his personal and cultural features in its focus, as well as understanding and respect of other cultures and differences as a basis for functioning of a multicultural society such as ours. A positive example of building coexistence in a multiethnic society since the very young age, the Ombudsman welcomes and supports the project "Integrated bilingual elementary school", within the frames of which pupils from Macedonian and Turkish nationality at the ES "Marsal Tito" in Strumica have been attending classes since November 2012 simultaneously in Macedonian and Turkish language at a class with mixed nationalities. One more elementary school in Gostivar is a part of this project.

Working Relations

Municipal administration is organized for the purpose of executing issues under the competence of the local self-government. Its purpose is to prepare acts for the Board and the Mayor, to execute professional tasks and to monitor the situation in areas with the competence of the municipality, to conduct analysis of the situation and to propose initiatives and proposals for solving certain issues. These competences and authorizations of the municipal administration should be conducted in a conscientious, professional, efficient, neat and timely manner and all that exclusively in accordance with the Constitution of the Republic of Macedonia, the law and the statute of the municipality. Only this type of municipal administration can represent a real service for the citizens and can contribute to unobstructed finalization of the government decentralization process from central to local level.

In order to provide efficient municipal administration, the Mayor of the municipality, being the person who manages the administration and takes decisions on employment, rights and responsibilities of the employees, has to respect the legal regulations concerning rights from working relation and those rights should be provided for all citizens applying for work or for every unemployed person, regardless of his/her ethnicity, gender, social origin and most of all political orientation. While employing municipal administration, the professional qualifications of applicants needs to be considered, their working experience as well as the personal features and skills. The reality in municipalities, unfortunately, is different.

Namely, while recruiting, the spoil system is most frequently applied, instead of the best applicants, persons on political, relational or friend recommendation are employed. This situation was stated in the European Commission Report, as well as in the reports of several foreign and local organizations dealing with this issue. What is typical for this report year is that the Ombudsman did not receive a single complaint on violation of rights in employment procedures in municipalities. This might mean that the citizens accept the situation that in order to be employed at municipal administration it is not necessary for an applicant to fulfill the criteria stated in the advertisement. Citizens are not willing, nor do they believe in the possibility to change the mayors' decision through the institutions of the system and they do not decide to initiate procedures. Here the Ombudsman, once again, indicates that recruitment should be conducted exclusively on the basis of qualifications of applicants and that the employment procedure must not be burdened with political or any other beliefs of the applicant.

Several complaints by employees at municipal administration were submitted to the Ombudsman on irregular conduct of a disciplinary procedure, more precisely issuing decisions by mayors on financial fines for committed disciplinary offense, without conducting a procedure foreseen by the Law on State Servants. The Ombudsman indicated to the mayors their obligation to apply the provisions from the Law and requested annulment of the previously issued decisions. The mayors acted in accordance with the indication and annulled the decisions, which meant protection of rights for these persons. The Ombudsman managed to protect previously violated rights of other employees at the municipal administration, when a mayor, through an order, conducted reappointment from one to another working position and imposed additional tasks to the employees. Following these complaints, the Ombudsman indicated that such a legal act, which was issued on the basis of the Law on Working Relations, is not applicable for employees at municipal administration because the provisions from the Law on Public Servants needs to be applied for these employees. This indicates that, unfortunately, certain mayors still do not know the status the employees at the municipality have, or the legal regulation on working relations. Consequently, this ignorance of the legal regulations, leads to violating the rights from working relation on the one hand, and on the other hand a possibility is created for the employees not to bear responsibility for violating working obligations, exclusively because of improperly conducted procedure.

Employees at municipal administration also complained on violation of the right to receiving compensation to salary because the mayors did not pay retirements grants or other salary compensation, delayed the procedures upon objections to issued acts by them or reacted to

delay of second instance procedures upon appeals before the Commission for Deciding upon Appeals and Objections by public servants at the Administration Agency. Acting upon these complaints, the Ombudsman managed to provide payment of these retirement grants or other compensation fees to the employees and by its interventions, the procedures upon appeals and objections were expedited.

In the area of violation of rights from working relations, the Ombudsman received complaints by teachers at elementary schools. The majority of them referred to protection of the right to a realistic compensation for transportation to and from the working place. According to the mayors, by introducing the concept of gross salary, the obligation for paying additional amounts for transport to the teachers stopped, and they referred to opinion given by the Ministry of Education and Science and the Ministry of Finances. While acting upon these complaints, the Ombudsman addressed indications to the mayors of the municipalities on the legal provisions and collective agreements which secure the right of the employee to compensation of the realistic transportation expenses. In their replies, the mayors informed the Ombudsman that the teachers in elementary schools are paid a bonus to the salary for working at hills/mountains (villages) which, according to the Ombudsman must not be equalized with the compensation for realistic transportation expenses. However, at the end, the mayors indicated that they were not able to cover the transportation expenses for the teachers to and from the schools due to financial reasons. Taking into consideration this attitude of the local self-government bodies and the rejection of the Ombudsman's indication to their obligation to properly respect the provisions from the General Collective Agreement for the public sector, which strictly defines and recognizes this right, the Ombudsman advised the teachers to request court protection of this right.

Teachers at elementary schools also complained on issuing decisions for termination of their working relation, more precisely not extending the working contracts to undefined period of time*, although they had worked at schools with such contracts for several years, and some of them even fulfilled the prerequisites for transformation of their working relation to undetermined time. In their complaints they alleged that the principals engaged other teachers for their positions. According to the Law on Working Relations, it is a discretionary right of the principal to decide who to sign a contract with, regardless whether it is about a definite or indefinite term contract, but that right must not be abused and before the expiry of the period needed for transformation of the working relation, the contracts with the teachers not to be prolonged.

Regarding employment at elementary schools, there were complaints requesting interventions in the realization of the right to adequate and equitable representation of the communities' members. The Ombudsman, within the frames of its competences, took measures and activities and indicated to the principals their constitutional and legal obligation for respect of this principle while conducting the recruitment procedures for teachers. In one complaint the Principal accepted the Ombudsman's indication, but only formally because instead of recruiting a teacher – member of the community, he annulled the advertisement and did not recruit anyone. In other cases, during the procedure the complainants initiated court procedures for protection of this rights as a result of which the Ombudsman stopped its activities.

In this report year there were complaints by employees at public enterprises, established by local authorities, employees at kindergartens and cultural companies. The complainants indicated to violation of rights from working relation due to not payment of salaries, termination of a working relation, reappointment or psychological molestation. Acting upon these complaints, the Ombudsman found violation of rights in only two cases and managed to protect them.

Taking into consideration the situation elaborated above, the Ombudsman finds that mayors and managers of public enterprises or institutions, the founder of which is the local self-government, do not always respect the legally stipulated procedures in the area of working relations, the right to priority in employment for the members of the communities provided by the Constitution and the legislation is not always respected and realized and that there are cases of violation of the non-discrimination principle on any ground.

Social protection

One of the competences in the decentralization process transferred to the local authorities is the social protection as well. It encompasses the protection of children, kindergartens and nursery homes, realization of social care for children with disabilities, children without parents, housing of persons with social risk, realization of the right and upbringing children at preschool age. The local self-government has to perform these competences in accordance with the National Program for development of social protection. The decentralization process is directed towards improvement of capacities of local bodies in the area of social protection. In the process so far, only protection of children at kindergartens, as well as elderly care institutions have been encompassed. The work of these institutions is financed by block dotation from the central authorities, and the budgets of the municipalities foresee only a single financial aid for the most vulnerable and socially endangered citizens, the amount of which is far from corresponding to the real needs of these citizens.

In 2011, this single financial aid provided by the local authorities for the citizens using social aid, but had a necessary need for additional means in order to satisfy the most fundamental needs (most often medicines and medical treatment), was the basis on which the central government deprived them from the right to financial aid on the basis of social aid. To make the absurd even worse, these citizens borrowed money to pay back the means received on the basis of social aid. As an example of these severe violations of the rights of the most vulnerable and socially deprived citizens is the one of a citizens, for a single financial aid received by the municipality of 1.100,00 denars is obligated to pay back a total of 130.000,00 denars. The Ombudsman's indications that the single financial aid by the municipality cannot be considered as an additional financial income neither according to law, nor according to the provisions of the Rulebook on the Manner of realization of social aid, were useless and these citizens were deprived from the right to social financial aid.

As a result of the situation in this area, the Ombudsman requests from the local authorities to take preventive measures and measures for providing adequate social services for the most vulnerable groups of citizens. The decentralization process accents the obligation of the local authorities to be closer to the citizens, especially to the most vulnerable and poorest groups of citizens. Also, the Ombudsman indicates that the citizens have very little or no knowledge of the local authority as a body which has the competence and obligation to provide social protection for certain groups of citizens, because of which they are not even aware that the local authorities violate their rights by not taking effective measures for providing this protection. The finding is confirmed by the fact that no single complaint was submitted to the Ombudsman on violation of rights by the local authorities in the area of social protection.

Finances

The essence of the decentralization is that the local authorities need to be authorized and responsible for their own financing of local needs of the citizens. In general, it means that in order for a complete financial autonomy to be provided, the local authorities need to have the right to state and change tax percentage and tax basis. In the Republic of Macedonia, this right is provided for the local authorities selectively, with already prepared laws which traditionally secure the income of the municipalities by the Law on Property Tax, Law on Communal Fees and the Law on Administrative Fees. The basic income is certainly provided by the Law on Property Tax, which incorporates the property tax, heritage and present tax and the tax on real estate trade. Local

authorities only have the right to determine or more precisely, to choose a percentage which is of already limited amount from / to by the very law. This leads to a completely logical question whether by this manner of securing income a real fiscal decentralization is done or is it only a transfer of competences and responsibilities for determining and charging of these taxes?

The analysis in the Republic of Macedonia of the level of realization of the fiscal decentralization indicate that the financial situation of the large number of municipalities is improved due to increase of primary income of the municipalities, means from transfers from the central budget, public private partnership, donations, credit lines and other financial sources. A great number of municipalities are capable to use their own resources, they are financially stable and with a higher level of local economic development. Every municipality is dedicated to finding new financial resources which would secure financial independency. It is another issue whether the citizens feel the improved financial condition of the municipalities according to this analysis. Have they been given higher benefits, meaning can they really see that their municipality has become financially richer, has the municipality constructed or reconstructed streets, infrastructure, improved the water supply conditions, settled the public lighting system in complete and all other issues of importance for the everyday life of the citizens. In practice, a positive answer to these questions can be seen for only a small number of municipalities.

In 2011, according to the complaints received by the Ombudsman in this area, citizens faced attempts by the municipal administrations to charge obsolete tax, by blocking their bank accounts for ungrounded charge for a communal fee for the firm, higher tax calculations for real estate trade. Citizens faced cases of disrespect of legally stated procedure for determining taxes, lack of realization of decisions issued upon appeal in second instance, delay of procedures for issuing administrative acts. In this report year the complaints on charging property tax for a period of 10 years back were the most numerous ones.

Acting upon these complaints, the Ombudsman submitted indications in which he stated the provisions of the Law on Property Tax, according to which the right to charge this tax becomes obsolete after five years, upon the closure of the year in which the payment should have been done. The period of 10 years of obsolescence is absolute and applicable only in case within that period the bodies took activities for its payment, activities which stop the obsolescence. Following these indications, the municipal administrations reported that the basis on which they request the payment of tax is because the mayors did not submit proposals for write-off of obsolete tax obligations which are still registered in the municipalities. The Ombudsman did not accept this explanation because not conducting a procedure for write-off of obsolete obligations, in no case may mean a right for the municipality to charge obsolete debts. Certain municipal administrations accepted this indication, supported by the public Revenues Office and altered the decisions for determining property tax for complainants. However, a quite logical question is imposed: is that indication applied towards all citizens or do the municipalities abuse the ignorance of the citizens on this issue and continue charging tax obligations for a period of 10 years?

In complaints on payment of property trade tax it is typical that violation of citizens' right to realize their right to property over an object or land, gained on the basis on a trade agreement and paid agreed price, was due to the fact that state bodies, having the status of sellers, did not pay the tax. According to the existing regulation, a prerequisite for registering property right is a previous payment of the trade tax. In these complaints the Ombudsman did not find violation of rights by the local authorities but by the state bodies. The Ombudsman indicated to these bodies that they had the obligation to pay the trade tax and requested from them to pay it immediately.

Regarding determining and charging property trade tax, it was noticed that certain municipal administrations requested its payment for trade contracted in accordance with the provisions of the Law on property Tax, which states that this tax is not paid at physical divisions of property. This provision was interpreted differently by municipal administrations for every single case and according to the state servant's opinion, tax was either charged or not. The Ombudsman stated that the fundamental value of the constitutional order of our country is the equal application of laws towards each citizen and requested from the Public Revenues Office, being the competent body for conducting law regulation, to revise the application of these provisions by the local authorities.

The Ombudsman found that while performing financial authorizations, the municipal administrations violated citizens' rights due to non-applied or selectively applied legal procedure. According to the Ombudsman, the fiscal decentralization is one of the basic pillars of each decentralization system. Due to this fact, there is a necessary need for development of the capacity of local counselors and persons in charge in the area of local finances, in order for them to understand and apply the options for financing local self-governments. Increased capacities in the area of financial management will contribute to development of financial autonomy of the local self-government, and that will certainly influence the success of the decentralization process in the Republic of Macedonia. The Ombudsman also emphasizes the importance of the citizens' participation in adopting the local budget.

Consumers' rights

Communal services have been under the competence of the local authorities since before the decentralization process. Citizens mainly connect the successful functioning of a municipality with well-organized communal services. The aim of the local authorities in this sphere should be providing prerequisites for a more quality service for the citizens, which will justify the citizens' loyalty.

The most numerous complaints in this report year were the ones in which citizens indicated that public communal enterprises, established by municipalities, address warnings to citizens requesting payment of debts for not paid bills for water, sewing system or garbage removal services, under a threat for forced charge or disconnection from the water supply network. Acting upon these complaints, the Ombudsman found that it was about payment of debt dating several years back, while majority of public enterprises did not inform whether these debts were subject to forced charging. The Ombudsman indicated to all public enterprises that by addressing those warnings, a situation in which one part of the citizens, fearing forced charging, are prepared to accept their offer and sign a contract for payment of the debt in installments, regardless of the status of the bills - obsolete or not, or whether the citizens are legally obligated to fulfill the request or not. In its indications, the Ombudsman emphasized the responsibility for respecting the Law on Obligatory Relation, according to which the bills for electricity and heating, gas, water, chimney services and hygiene, in cases the service or the delivery has been provided for households, become obsolete after one year.

Taking into consideration the above mentioned legal provisions, the Ombudsman indicated to the fact that by this manner of working, citizens' rights are continuously violated in the area of consumers rights. The citizens, under the threat for forced charging, are misled to pay a debt they have no obligation to pay. Public enterprises acted upon these indications and did not impose further pressure for payments over the complainants.

Complaints in which citizens referred to ungrounded debts for paying communal fees for street lighting by the municipalities, without being provided with street lighting by the municipalities, were second in terms of quantity. Acting upon these complaints, the Ombudsman indicated to the mayors that according to the provisions of the Law on Communal Fees, the obligation for paying communal fee arises in the moment of utilizing the rights, object or service the fee refers to. Thus, although according to this law the obligation for paying the fee for street lighting is connected with installation of an electric device in an object and its connection in the electricity network, regardless whether that object is in use or not, still the main prerequisite for payment of the fee is using the service – meaning the existence of street lighting. The provisions of the Law foresee exemptions from paying communal fees, which state that owners of electricity measuring devices in settlements where street lighting does not exist, are exempt from the obligation to pay this fee. This provision clearly states the intention of this law to liberate the citizens from paying fees for services they do not use. The local authorities, meaning the municipality boards,

have the right to decide on classification of passive inhabited places with clearly visible migration, deficit professions and crafts in extinction and settlements without street lighting. This classification liberates the citizens from paying this communal fee.

The Ombudsman accents that citizens must not be abused in case such a decision does not encompass all regions and by that, the real situation is neglected – is or is not there street lighting. More precisely, the local self-government must not interpret that if in some settlement there is no street lighting, and that settlement has not been stated in the decision by the municipality board – citizens who live in that settlement or have objects connected to the electricity network, are obligated to pay the communal fee for street lighting. Acting upon these indications, the municipal administrations responded that for certain settlement there had already been programs for street lighting, confirmed by the municipality board and that it would be installed in a very short period of time. For places for which there is no plan for installing street lighting, it needs to be communicated with the electricity provider that those citizens need to be liberated from the obligation to pay the fee for street lighting. The municipalities mainly replied in this sense that a decision by the municipality boards was necessary. However, even after a longer period of time, the Ombudsman did not receive any reply whether the municipality boards had made the decision or not. By this, the citizens' rights were clearly violated by indebting them to pay a fee for a service they do not use at all. Citizens have been advised on their legal possibility to initiate administrative procedures before municipal administration in order to receive a refund for the fee they had paid without any grounds.

The Ombudsman also received complaints by citizens stating that public communal enterprises responsible for collecting garbage, request forced payment of a debt for communal service they had not used.

Namely, the complainants find problematic the fee for collecting garbage for an object under construction or for objects no one lives in as a result of which this service is not used. The Ombudsman indicated to the public enterprises that the Law on Communal Activities stipulates two parties, a provider and a customer of the communal service, which means an obligation for the customer to pay for the service, only in case the customer uses the service, and it is an obligation for the provider to secure permanent and undisturbed servicing of communal activities stipulated by the Law.

According to this, there is no basis for charging communal fee for collecting garbage in a house or flat nobody lives in, which means garbage is not produced, which leads to lack of an obligatory relationship. Taking into consideration this, the Ombudsman addressed these enterprises stating that they violate consumers' rights of the citizens in the designated municipalities by charging them with a fee for a service they do not use at all. Certain public enterprises acted upon these indications and withdrew the requests for forced payment of a debt on this basis, but certain enterprises did not act in this manner. The Ombudsman, in accordance with its competences, informed the mayor and the municipality boards on this unprofessional behavior and violation of citizens' rights. At the same time, the complainants were informed on their legal possibility to request refund of the money they had paid for this communal service in a court procedure or not to pay for the service.

Citizens referring to violations of rights by a public communal enterprise addressed the Ombudsman. Namely, before adopting the Law on Graves and Funeral Services, that public enterprise both provided funeral services and managed the graveyard, as a result of which that enterprise managed and utilized the finances charged by the citizens for solidarity funerals. Citizens stated that the public enterprise, which is now only performing the management role, is still collecting finances for solidarity funerals, even determines the amount of money for this purpose. Since the fact that funerals were done by private enterprises, the amount determined by the public enterprise was not sufficient for paying the funeral services and equipment requested from the citizens by the private legal entities.

Revoke of competence of the public enterprise for performing funeral services, imposed the question for the legal basis for its continuation by signing contracts with citizens for solidarity funeral and withholding financial means on that basis. Another logical question is a legal entity which legally is not permitted to provide funeral services manages the finances for a

“solidarity funeral”. The ombudsman indicated to the Public Enterprise that the activities it took, referring to the rights of the users of the solidarity funeral and management of finances from this fund, is legally ungrounded and supported. Because the enterprise did not act upon the Ombudsman’s indications and continued violating the citizens’ rights, the Ombudsman addressed the Municipality Boards, for being the body which established the public enterprises. The Board was requested to inform on the activities it had taken or was to take regarding the above mentioned allegations. The Board responded that a decision was made for enlarging the activities scope of another public enterprise for performing funeral services and that after receiving a license for performing funeral services, the solidarity funeral fund would be transferred to that public enterprise. The Ombudsman informed the citizens on this matter.

Property – Legal Area

The Ombudsman received a small number of complaints on violation of rights in the property-legal area. The citizens mainly reacted to not taking activities and measures by construction or communal inspections at municipalities, upon their reports. More precisely, citizens reacted because the inspections did not take actions for realization of the citizens’ rights to possession over their property without any disturbances, a right which was mainly violated by neighbors who hindered the access to their property by construction waste, leaving cars or construction of fences. Citizens reacted as well that the municipal administration did not install completely the communal infrastructure to already constructed objects although the fees had been paid, which results in their disability to use their property.

The Ombudsman acted upon complaints in which citizens requested expedition of expropriation procedures, hindering possession over land regained in the denationalization process, which had been planned by the municipality for another purpose according to the adopted urban construction plan. The municipal administration hindered the right to timely receive data or legal acts, which the citizens needed to realize the right of property over an object or land. After all these complaints, violation of citizens’ rights was found in each one, the municipal administration took activities upon the Ombudsman’s requests and the previously found violations were eliminated.

In the function of the decentralization process of the government, near the end of 2011, 11 municipalities were transferred the right to manage state construction land, by which the citizens will realize the rights to privatization of construction land as well as the rights to rent or purchase land before local authorities of these municipalities.

Environment

Realization of competences deriving from the legal provisions in the area of environment, and referring to the local government, results from two basic principles of the European Union: the principle of integrity, according to which the basis and aims of the policy for protection and promotion of the environment must be included in all developmental, strategic, plan and program documents issued by the local self-government bodies and the two-instance principle, according to which local authorities, within the frames of the competences stated by the law, have the right and obligation to take all measures and activities on their territory for protection and promotion of the environment, which are not within exclusive competence of the state government bodies.

A very small number of complaints were submitted to the Ombudsman in the area of environment which does not represent a realistic picture of the conditions in this sphere in any municipality in the Republic of Macedonia. The complaints referred to pollution of environment media (soil and water), pollution of water canals, careless disposal of construction and communal waste, increased level of noise caused by activities performed by individual craftsmen and noise coming from restaurants and bars.

Complaints referring to pollution of environment media (soil and water), mostly due to inadequate care for cattle and poultry or their farming in suburbs, by which the neighbors are exposed to permanent noise and awful odor. Letting waste waters through private yards or public surface, lack of construction of septic holes, leaving construction and communal waste on public surface or rivers were also basis for submitting complaints. While acting upon these complaints, the Ombudsman found that certain communal inspectors at municipalities, after finding that have committed offences, issued legal acts forcing the committers to certain activities, while referring to the provisions of the Law on Communal Activities according to which, by the changes adopted in January 2009, the criminal provisions were deleted. Thus, such acts cannot be executed and it is the choice of the offender to act according to the inspector's advice or not. Lack of sanction – a fine for committed offense, for some committers was a reason not to act according to the decisions issued by the inspectors and they continued violating the rights of their neighbors to healthy environment.

In terms of noise caused by performing activities by individual craftsmen, the authorized inspectors for environment also acted upon the Ombudsman's requests. They conduct inspections and take activities.

In 2011 there was a complaint by a non-governmental organization requesting an intervention by the Ombudsman to protect the legal rights of the citizens to access information by a municipality on taking activities and performing works on the river bed. Due to the pollution of the river bed, the non-governmental organization was worried that pollution of the environment elements might happen. The Ombudsman indicated to the bodies and the municipality to their obligation to enable access for the public to any kind of information on environment. The municipality acted upon the Ombudsman's indication and provided the requested information on activities taken for cleaning the river bed.

In terms of realization of rights in this area by local authorities, the Ombudsman finds that they are not on the necessary level and that they are still a real challenge for performing these competences. According to the Ombudsman, for the sake of efficient facing with this challenge, the priority is building capacities of the municipal administration, as well as investment in strengthening its operational power. Only by that the local authorities will be able to utilize all instruments at their disposal in an undisturbed and complete manner, in direction of preparing adequate policy, planning and conducting activities for improvement of the environment quality on their territory, as well as prevention of pollution of the environment.

CASES



NP no. 1259/11

A citizen submitted a complaint in which he stated that after having submitted criminal charges against a construction inspector, on several occasions he requested information on the procedure course, but did not receive a response. Upon the Ombudsman's intervention, information was received that following the investigation, no grounds for initiating a criminal procedure was found, but that the police officer committed omissions and did not prepare the official material on time, and did not inform the citizens either. The police officer was sanctioned adequately.

NP no. 2548/11

A citizen from Skopje requested an intervention because of lack of activities by the authorized construction inspector at the Municipality of Gazi Baba, upon his report on illegal construction. The Ombudsman addressed the competent construction inspector requesting to perform an inspection. From the response, the Ombudsman found that the competent inspection body acted upon the request, meaning an inspection was performed and administrative acts were prepared for removal of the illegal construction.

NP no. 3048/11

A citizen from Skopje submitted a complaint stating that the Health Insurance Fund – Regional Office Skopje, violated her rights by irregularly calculated amount of financial compensation of salary during pregnancy, birth and maternity leave. After studying the case and finding that the amount of the compensation was not calculated in accordance with the legislation the complainant was paid a lower amount, the Ombudsman, on several occasions intervened at the Health Insurance Fund, after which the complainant was paid the difference.

NP no. 2443/11

A citizen from Delcevo submitted a complaint stating that his rights were violated because the contribution to pension and disability insurance were not paid for him and that there was a delay of procedure on registration of the pension years of service with prolonged duration. The Ombudsman, finding violation of rights, on several occasions intervened at the Ministry of Defense and the Pension and Disability Insurance Fund, after what measures were taken by the competent bodies for expediting the procedure, the contribution fees were paid and the years of service were registered as pension years of service with prolonged duration.

NP no. 2049/11

A citizen from Skopje submitted a complaint in which he indicated violation of rights by the Pension and Disability Insurance Fund due to disability to realize the right to family pension, although he had submitted a request and fulfilled the legally foreseen prerequisites. The Ombudsman found violation of the rights and intervened to the Pension and Disability Insurance Fund on several occasions for recognition of the right, after which the complainant realized the right to family pension.

NP no. 803/11

A citizen from Skopje requested and intervention from the Ombudsman because of unjustified delay of procedure on realization of the right to social financial aid because the Center for Social Work did not conduct an insight at the household because the place of residence was far from Skopje. The Ombudsman intervened at the Center for Social Work, after which the commission conducted an insight at the household immediately and a positive decision was issued.

NP no. 2088/11

A complainant from Bitola submitted a request to the Ombudsman because of delay of procedure before a second instance body upon an appeal against a decision by which financial means for performed medical services were not refunded to her. After finding violation of rights, the Ombudsman, on several occasions, intervened at the Ministry of Health. However, due to the fact that no activities were taken upon the interventions, the Ombudsman submitted information to the Minister of Health and the Government of the Republic of Macedonia.

The procedure was again prolonged. Thus, a special report was submitted to the new Minister of Health indicating that the Ombudsman's work is hindered and that the complainant's rights were violated. After this report, a decision was issued upon the appeal, it was accepted and the case for returned for reconsidering.

NP no. 114/11

A citizen from Tetovo requested an intervention from the Ombudsman due to violation of rights by the Public Institution Inter-municipal Center for Social Work – Tetovo, which after a longer period of time did not act upon his request for adopting a child. The Ombudsman addressed the Inter-municipal Center for Social Work in Tetovo. Consequently, it started taking actions, meaning the Commission on Adoption was provided with professional opinion and documentation on the case, after which the complainants were registered as possible adopting parents.

In the meantime, the Ministry of Labor and Social Policy initiated selection of parents for adoption electronically, as a result of which the Ombudsman addressed the Ministry of Labor and Social Policy and was informed that the Commission on Adoption issued a decision for fostering an underage child and its adaptation at the complainant's family.

NP no. 1991/11

The parent of three underage children, serving a prison sentence, submitted a complaint requesting protection of rights of his underage children because the Center for Social Work Skopje separated the children in a fostering family and one of them was again accommodated at a center for children without parents and parental care.

The Ombudsman addressed the Inter-municipal center for Social Work of the City of Skopje and requested clarification of the reasons for separating the children and the reasons because of which it was decided one of the children to be accommodated at an institution. Indicating to the best interest of the children, reconsideration of the possibility for fostering the three children at one place, meaning with the complainant's relatives, was requested.

Further on, the Professional Team of the Center, upon the parent's request, took activities for realization of a meeting between the children and the parent at the prison, after which the Center initiated a procedure for change of the fostering manner for the children.

NP no. 2796/11

A citizen from Skopje submitted a complaint stating that the principal of an elementary school rejected to accept the documents for his child's enrolment at the stated school. Acting upon the request, the Ombudsman addressed the principal of the school, and requested from the educational inspector to conduct an extraordinary insight on the case. From the response by the listed bodies, the Ombudsman found that the child's enrolment was not a problem. The parents were supposed to apply for enrolment of the child and to act according to the Law on Elementary Education.

In that sense, the parents were advised to apply at the school, after which they received a written notification at their home address to go and apply. However, when the parents went to the school to apply, they were rejected again, without receiving an explanation on the reasons. The Ombudsman intervened again at the school and the child was enrolled at the corresponding grade.

NP no. 3187/11

Citizens from the village of Slatina submitted a complaint for protection of rights due to delay of procedure on nostrification of a diploma gained at the Military University "Skender Beg" in Tirana, the Republic of Albania because they were hindered in their further promotion to a higher rank. The Ombudsman addressed the Ministry of Education and Science and requested expediting of the nostrification procedure, and requested from the Ministry of Defense information on whether the designated persons work at the Ministry of Defense, meaning the Army of the Republic of Macedonia, according to the contract between the Ministry and the complainants.

Following the interventions, the diplomas were nostrified, and the Ministry of Defense requested from the Head Quarters of the Army to confirm whether the persons serve the Army of the Republic of Macedonia. Later on, the Ombudsman found that the Ministry of Defense initiated a procedure for employing the complainants.

NP no. 3770/11

A complainant from Skopje requested from the Ombudsman to take measures for liberation of the debt from the year 2007, allegedly due to illegal use of electricity.

Following an insight at the "EVN Makedonija" AD – Skopje, it was found that no court procedure was initiated on illegal use of electricity, which is a criminal offense – stealing and that the legally determined time frame for prosecution of this criminal offense had passed. Thus, indicating that no court procedure was initiated and due to lack of evidence for the alleged criminal offense, the Ombudsman requested cancellation of the debt, which was accepted.

NP no. 3674/11

The Ombudsman received a complaint in which the complainant alleged that the Faculty of Philology at the "Sv. Kiril i Metodij" University – Skopje did not accept her request for being liberated from the obligation to co-finance the studies although she, being a mother of a child younger than the age of six, has the right to that.

Acting upon the complaint, the Ombudsman indicated to the Faculty that according to the Law on Higher Education, among other categories, mothers-students with children younger than the age of six, have the right to special benefits. The educational institution replied that until the student's request was received, there was no information that it was about a mother of a child younger than the age of six, but that following the Ombudsman's intervention, the complainant was allowed to continue the studies without paying the expenses. The Ombudsman intervened for refund of the expenses charged for covering the fee for the academic year which were charged without grounds.

NP no. 2180/11

An immigrant (in Switzerland) in 2010 addressed the Ombudsman requesting protection of the right to citizenship of the Republic of Macedonia as a result of a decision by the Ministry of Interior Affairs, ex officio to annul the decision for registering the citizenship, after which the Ministry deleted the citizen from the citizenship registration of the Republic of Macedonia. The complainant stated that she had not received any information neither by the Embassy of the Republic of Macedonia in Bern nor by the competent ministry.

Following several interventions by the Ombudsman, and after a longer period of time, the Ministry of Interior Affairs issued a decision for a repeated acceptance of the complainant in the citizenship of the Republic of Macedonia.

NP no. 1116 / 11

A complainant from Kicevo submitted a complaint due to disability to register her new born child at the book keeping records for the Municipality of Cair under the name transcribed in Albanian alphabet and language, because the department did not have registration books in Albanian language.

Acting upon the complaint, the Ombudsman addressed the Book Keeping Management referring to the Law on Book Keeping Records. Later, the Management informed the Ombudsman that it had issued an order for the book keeping areas for the municipalities of Cair and Butel, by which the employees were instructed to register children from the Albanian community in Albanian language as well.

NP no. 1074/11

A citizen requested an intervention before the Joint Stock Enterprise for Construction and Management of Housing and Business Premises of the Republic, because of unjustified delay of a procedure for forced removal of illegally moved person in the flat, which by a decision of the Commission on Accommodation Issues, were awarded to rent.

The Ombudsman, through an immediate insight, found that the complainant had submitted several requests to the Joint Stock Enterprise, requesting the awarded flat, but his requests were not answered positively. Finding that the complainant's request was grounded, the Ombudsman requested from the Joint Stock Enterprise to take immediate measure and activities for conducting a procedure on forced removal of the illegally moved person and real award of the apartment.

Following the Ombudsman's interventions, the Public Enterprise for Construction and Management of Housing and Business Premises of importance for the Republic informed that the apartment was emptied and possession was awarded to the complainant.

NP no. 1787/11

A non-governmental organization addressed the Ombudsman informing that the City of Skopje was the sponsor of "Moto Fest" and the organizer, the Association "Nokni Volci", printed advertising material with offensive contents and speech of hate towards persons with certain sexual orientation.

Following the activities taken, the Ombudsman submitted an indication to the City of Skopje in terms of the advertising material that any kind of discrimination and speech of hate in the Republic of Macedonia are forbidden. Later, the Ombudsman was informed that activities were taken upon the indication.

NP no. 463/11

A citizen from Skopje submitted a complaint on not taking activities upon a request, meaning lack of response by a competent body – the Pension and Disability Insurance Fund of Macedonia – Commission on Estimating the Working Ability. The request was on reconsidering the working ability for realization of rights according to the Law on Employment of Disabled Persons, because the complainant is a blind person.

Following the complaint, an indication was submitted that the complainant is entitled to a response to her request and the fact that only stated disability is a basis for a special condition for employment and work of a disabled person was emphasized. Not satisfied with the explanation by the Commission, according to which lack of activities was due to lack of personnel, the Ombudsman requested taking activities for strengthening the personnel capacities and respect of equal possibilities for all persons in realization of rights by application of the principle of emergency and economy of procedures.

The indication was accepted, the number of personnel at the Commission on Estimating the Working Ability was increased, activities were taken upon the complainant's request and positive opinion was issued which led to realization of her right.

NP no. 3839/11

Upon a complaint on discrimination towards citizens using the symbol language for informing, who indicated that there is a need for broadcasting of the parliament sessions with symbol language as well, the Ombudsman addressed the public service "Makedonska Televizija" and the Board of the Parliament Channel, informing them on the opinion that there is a need for introducing the symbol language while broadcasting the session.

The public service informed that technically there was a possibility for broadcasting with symbol language, and the Boards of the Parliament Channel informed that it accepted the Ombudsman's opinion and that activities would be taken for broadcasting the sessions with symbol language.

NP no. 500/11

Following information gained from the media that at the Skopje Prison, inadequate search was conducted over female detained persons, the Ombudsman self-initiated a procedure and conducted an insight at the Prison. It was found that search was conducted in an unprofessional manner and against the Rulebook on Armament and manner of conducting work at the Security Department at penitentiary-correctional institutions and educational-correctional institutions. It was also found that the procedure itself for search of persons by the Security Department was conducted with omissions, as well as with different approach towards detained persons, which placed them in unequal and humiliating position.

The Ombudsman submitted opinion to the Ministry of Justice, the Management for Execution of Sanctions and the Prison Manager on the need for a complete adjustment of the laws and by-laws with the European prison regulation.

NP no. 2209/11

Having information that an official from the Resocialization Department at the Skopje Prison, in an inappropriate and humiliating manner treated a convicted person and completely neglected the resocialization as an educational process, the Ombudsman submitted an initiative to the Prison Management for initiating a disciplinary procedure which was accepted and after the procedure, a disciplinary measure was taken.

NP no. 1704/11

A citizen from Kumanovo expressed his dissatisfaction from the activities of an executor from Kumanovo and requested an intervention from the Ombudsman. From the submitted evidence it was found that the executor acted against article 104 of the Law on Execution, which refers to exemption from execution on income on the basis of temporary employment.

The Ombudsman indicated to the executor to the need for respect and application of article 104 of the Law on Execution, according to which, income on the basis of temporary employment cannot be subject to execution. The executor accepted the indication explaining that he would request unblocking the complainant's bank account immediately and would stop the execution.

NP no. 2344/11

A teacher from Skopje requested an intervention in a procedure on transformation of the working relation from a determined to undetermined time period. Upon the Ombudsman's intervention, the necessary documentation was completed, but the transformation process was on hold due to the election process.

After the new Government was formed, the Ombudsman continued the procedure indicating that all legal prerequisites were fulfilled from transformation of the working relation. The Ombudsman's indication was accepted and the complainant signed a contract for undetermined time of employment.

THE OMBUDSMAN – NATIONAL PREVENTIVE MECHANISM



By the Law on Ratification the Optional Protocol to the Convention against Torture and other type of cruel, inhumane or humiliating conduct or punishment, the Republic of Macedonia stated that the Ombudsman was appointed to act as a national preventive mechanism (NPM), and in cooperation and with previous consent by the Ombudsman, certain competences of this mechanism may be transferred to nongovernmental organizations and organizations with humanitarian status in the Republic of Macedonia. The Ombudsman took adequate measures in terms of providing functional independence of the mechanism within its frames, so since April 2011, a special department for prevention from torture started working within the institution.

The National preventive mechanism has the competence to investigate the activities taken towards person deprived from their freedom at places for depriving from freedom, to give recommendations to relevant bodies in order to improve the activities and conditions for persons deprived from their freedom and to submit proposals and opinion in terms of the existing or draft regulation. According to the competences, the National preventive mechanism team has access to all information referring to the number of persons deprived from their freedom, activities taken towards those persons, conditions of their deprivation, as well as access to all places for deprivation and their installations and objects. This team is enabled, without being monitored and without witnesses to talk to person deprived from their freedom, as well as with any other person the National Preventive mechanism finds that might provide relevant information, and at the same time is free to choose the places at which they would like to visit the persons they want to talk to.



During the first two months of the working of the Department for prevention of Torture prepared the necessary documents and tools for work, such as check lists for fulfillment of standards, rights and conditions at places in which persons are deprived from their freedom, a questionnaire for talk with persons deprived from their freedom (an interview form) specified according to the category of persons, a proposal – list with questions and direction for conducting a talk with official persons on the level of managers, officers and personnel employed at those institutions, a report form for visit at other places for deprivation or detention etc.

In order to inform on time and in complete on the functioning of the National Preventive Mechanism, the Ombudsman held a press conference to promote the new mechanism for torture prevention. At the same time, the National Preventive Mechanism submitted a written notification to the competent bodies and institutions on

its competences, realized meetings with heads of relevant institutions, prepared a brochure in eight languages and a compilation of relevant legal provisions in three languages, and had a presentation on its mandate and competences before the students at five faculties of law in the Republic of Macedonia.

In the period July – December 2011, 18 regular preventive visits were conducted: 12 visits of police stations, three visits of penitentiary – correctional institutions, among which the prison for underage children (detention departments and departments for convicted persons), one visit of an educational-correctional institution and two visits of other places of open or semi-open type (Public Institution Department for Fostering children and youth and the Shelter Center for Asylum Requesters). Fourteen special reports on the visits were submitted to adequate institutions and their hierarchically competent body. Out of 18 visits, 17 were conducted without prior notification, while in only one case the National Preventive Mechanism announced its visit at the managing personnel of the visited institution. The special reports by the National Preventive Mechanism are of confident type and contain analysis of the conditions, findings and recommendations for overcoming the irregularities found. The National Preventive Mechanism prepares and publicly publishes an annual report.

Educational – informative activities for the bodies and institutions in which persons are deprived from their liberty were of special importance for the work of the National Preventive Mechanism. In that direction, four round tables were organized on local level (Bitola, Skopje, Tetovo and Stip) with the support of the OSCE Mission to Skopje and one three-day round table on central level titled: "Comparative experience in the area of depriving from freedom and the role of the Ombudsman", organized within the frames of the twinning project in cooperation with the Ombudsman from Spain. At the round tables the new role of the Ombudsman was presented as a national preventive mechanism, and participants from the ministries, competent persons from places and institutions in which persons are deprived from their freedom, as well as representatives of citizens' associations and international organizations and missions in the Republic of Macedonia took part.

In order to strengthen the capacities of the Department for Prevention for Torture and exchange of experiences and good practices, the National Preventive Mechanism realized study visits to the Spanish Ombudsman through the twinning project, the National Preventive Mechanism at the Ombudsman of the Republic of Poland with the support of the OSCE Mission to Skopje, and there was a trilateral meeting and one mutual preventive visit at a penitentiary-correctional institution with the national preventive mechanisms of the Republic of Albania and the Republic of Slovenia, two expert visits from the Spanish National Preventive Mechanism in Skopje within the frames of the twinning project, as well as two specialized trainings for the employees at the Department with representatives from the European Committee for Prevention from Torture and other type of cruel, inhumane or humiliating conduct or punishment. The specialized trainings with the representatives of the Committee



for Prevention from Torture at the Councils of Europe were held by the support of the OSCE Mission and were realized at a penitentiary – correctional institution and at a psychiatry hospital.

The National Preventive Mechanism had a number of international activities. In June 2011 this team participated at the regional conference on the role of Ombudsmen in the fight against discrimination and prevention of torture held in Ohrid, organized by the Ombudsman of the Republic of Macedonia. The National Preventive Mechanism participated at two workshops organized by the Council of Europe in Tallinn and Baku, at the closing annual meeting of the heads of national preventive mechanisms of Slovenia, as well as at the OPCAT World Forum in Geneva organized by the Association for Prevention from Torture.

GENERAL CONDITIONS



A feature of the institutions for protection of human rights and freedoms is not only their activities on protection of individual citizens' rights. Activities on individual complaints certainly represent the basic function, but not the only one if we take into consideration that exactly these two institutions, through their work should draw conclusions on the general conditions which represent the doers or agents of violation of human freedoms and rights in a society.

Facing the permanent increase of the number of complaints and the noticed increase in the number of accepted interventions by the Ombudsman, the finding remains that this is only the case with the protection of individual rights of the citizens. Serious findings, for which the Ombudsman continuously informs, remain without an adequate response by competent bodies and institutions, and by that the agents for violation of freedoms and rights in our society remain present.

Namely, the problem with unequal treatment of citizens on various bases remains noticeable, a situation which is not seen only in complaints submitted to the institutions, which actually generates the overall picture for the balance in the society. The functioning of multicultural societies presupposes awareness for the need to respect, understand and tolerate differences and prevention of divisions and exclusions on various bases. In our society, the division on a number of bases is reality, which only fortifies the manifestation of discrimination and its presence in all segments of the society.

On the other hand, citizens face unequal treatment on many bases daily, and they also demonstrate prejudices towards differences. Ignorance of the forms of this phenomenon disable the victim to understand this violation of rights, and consequently to request protection. Our findings indicate that in a situation of a division in the society of various types, the division according to political beliefs, is the most expressed on and is felt the strongest in areas of special importance for the existence of people, and those are the rights from a working relation. It is noticed when it comes to deciding on citizens' rights or it may be defined as unequal treatment in the approach to justice, and is also noticed in cases with the same real condition, but different decisions which recognize, meaning do not recognize a certain right.

The perception of selective approach, the citizens mainly report to our institution because it evokes their feeling of legal uncertainty. Citizens report the selective approach while deciding in property rights as well, which in many cases brings into question the constitutional warranty for the right to property. The long process of denationalization and the number of changes of the legislation, additionally intensify the feeling of legal uncertainty, especially since these processes touch upon the economy segment of the citizens' lives.

Hence, the dissatisfaction from the manner in which citizens are treated as consumers and the quality of products and services they receive is more present and worrying. It speaks for the increased dominant position of certain product and service providers. This situation, along with the increasingly expressed social risk of a certain category of citizens, on the one hand and the lack of effective and adequate social protection on the other hand, brings the citizens' existence in a highly serious condition.

Inadequate social protection is illustrated in the lack of a system for prevention and by that, not quality protection of children's rights, as the most vulnerable category, which is supported by the increased number of cases of violence over children, including cases of family violence and trafficking, in which children are the most common victims.

Conditions in the area of environment and the everyday pollution speak to negligence, irresponsibility of institutions of the system and lack of care that the consequences are to the detriment of all citizens and their health.

However, the essence of reasons for all these findings is the level of awareness and the level of professionalism and responsibilities in performing tasks, which creates the picture for the manner in which the public administration functions in general. Public administration is the inevitable part of citizens' lives and they are forced to communicate with it on daily basis in all segments of the system and in order to provide security and fairness for the citizens, its functioning needs to be protected from influences and divisions. It is obvious that it can be achieved only through a system if employing state servants free from influences on political basis. The public administration is meant to exist for the citizens and their normal functioning in the society, thus the improvement of their mutual relation is necessary.

Public informing did not remain protected from the phenomenon of divisions either, which created space for confusion in the public opinion, as well as for additional tensions. Obstruction of freedom of speech and public expression of thought with elements of disrespect of differences, can still be seen in the society and lead to deepening the prejudices and discrimination. Hence, it can especially be seen that there is stigmatization of certain groups with different orientation, which only emphasizes the ignorance of differences and the fear resulting from it. All this leads to marginalization of certain categories of citizens and space for serious violation of their rights.

Progress of the society, when it comes to human freedoms and rights, can be seen on the basis of situation in realization, respect and protection of rights deprived from their freedom. Domestic legislation is still not adjusted with international documents, and especially with the European prison rules. Also, the existing conditions in certain prisons and psychiatric institutions are inhumane, and the treatment is not in accordance with the humanity and dignity standards, which indicates lack of sensibility and humanity while approaching this vulnerable category of citizens.

However, the legislation is only the foundation and the system problems are overcome with integrity and professionalism in deciding by relevant agents in the system. Hence, the fight for freedoms and rights of the citizens does not only mean changes in the system from a normative aspect. On the contrary. The benefits are much further reaching. The benefits are reflected in the manner in which the individual and the state understand and respect the foreseen

standards and norms and their awareness for the need to nurture human values – understanding, tolerance and awareness for equality, regardless of the differences.

ABOUT THE INSTITUTION



Organization and manner of work

The Organization of the Ombudsman's work is stated in accordance with the Law on the Ombudsman and other laws and by-laws.

The Ombudsman performs duties through organizational units at the main office in Skopje and the regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

Personnel

During 2011 twelve employees were recruited at the main office in Skopje and one younger assistant at the regional office in Stip. Two employees terminated their working relation.

According to the qualification structure of the employees, 57 possess higher education, 21 high education. 47 of them are female and 31 male.

The Ombudsman employs 39 Macedonians, 28 Albanians, 3 Serbs, 3 Roma, 2 Vlachs, one Turk, Bosniak and Croatian.

Operational means

The operational financial means for the work of the Ombudsman are provided from the Budget of the Republic of Macedonia.

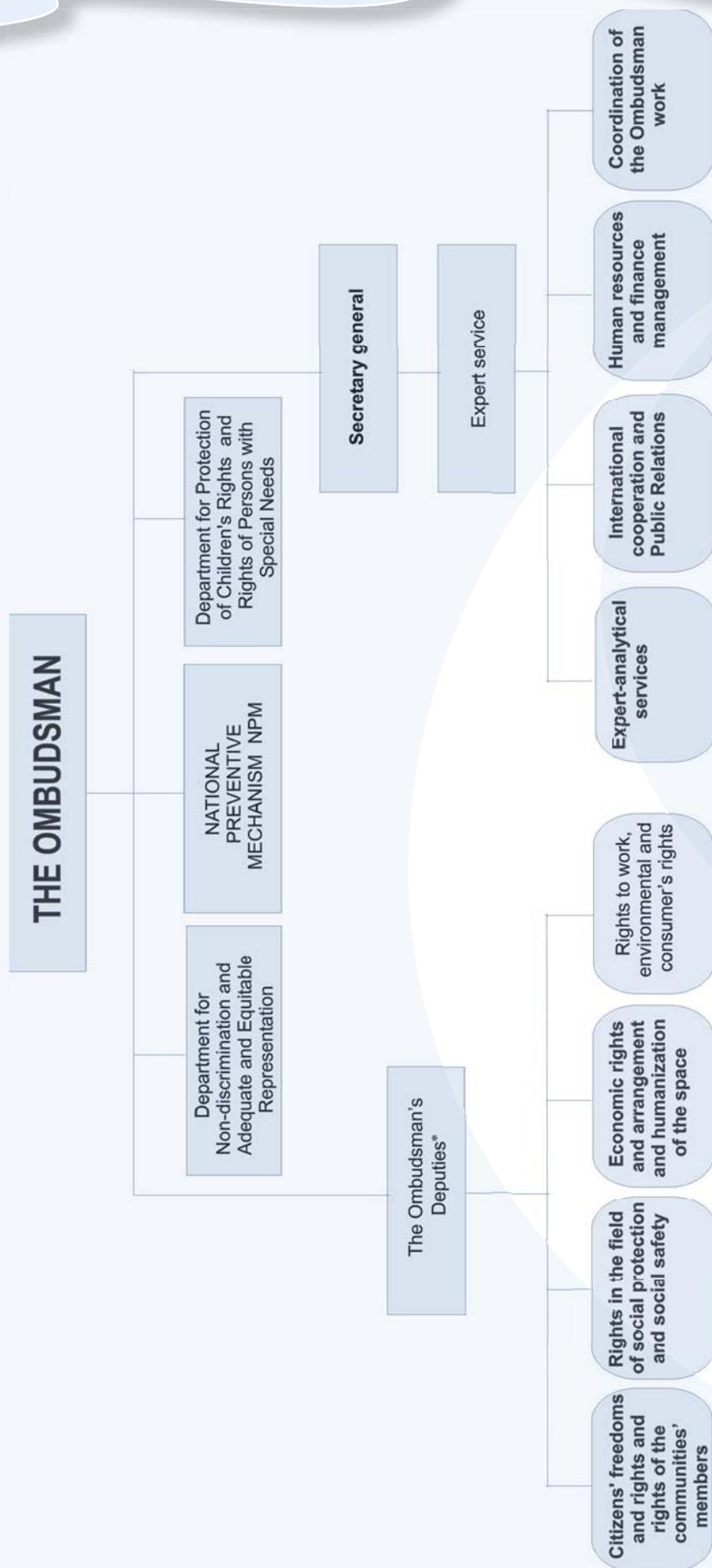
In 2011 the activities of the Ombudsman, according to the existing regulation, were realized with 76.137.841,50 denars or 96.6% of the means planned.

Activities on promotion of human freedoms and rights and the possibilities for their protection in 2011 were realized with financial help by the Swedish International Development Agency – SIDA, the OSCE Mission to Skopje, as well as CRONSEE - SEE Children's Ombudspersons' Network

The manner of financing the institution's work remains disproportional with its competences and position in the constitutional – legal system in the Republic of Macedonia. Especially since the Ombudsman does not participate in the preparation of the Budget, and the Law states that it needs to justify the requested means at a Parliament session. So far, this has been only a formal obligation which has no essential meaning.

The Ombudsman emphasized the need for a special line in its budget, for performing the function of the national preventive mechanism, which is an obligation of the state according to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ombudsman continuously indicates to the need for this issue to be settled by implementing a new, modern, transparent and independent financing system.



* Four Deputies in the Office in Skopje and Deputy in the Offices in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

**Republic of Macedonia
Ombudsman**

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