

**VARIA** 30 (E)

REPUBLIC OF MACEDONIA

**PUBLIC ATTORNEY**

REPORT ON THE WORK OF THE PUBLIC ATTORNEY FROM  
ITS ESTABLISHMENT JULY 3 1997 TO MARCH 31 1998

May 1998, Skopje



## INTRODUCTION

# REPUBLIC OF MACEDONIA PUBLIC ATTORNEY

The Constitution of the Republic of Macedonia established the institution Public Attorney, world-wide known as Ombudsman, for the purpose of protecting, within its domain, the constitutional and legal rights of citizens when violated by bodies of state administration and other organs and agencies with public mandate (article 77 of the Constitution of the Republic of Macedonia). On the basis of this regulation the Assembly of the Republic of Macedonia on its meeting held on February 13 1997 passed the Law on Public Attorney which regulates closely the conditions for appointment, dismissal, competence and mode of work of the Public Attorney (article I of this Law).

The Assembly of the Republic of Macedonia on its meeting held on July 3 1997 made a decision for election of Public Attorney which went into effect instantly. The Public Attorney, however, did not begin its work on July 3 1997 because of the necessity of making certain preparations beforehand. Namely, it was necessary to provide office space, means for work (financial, material, technical and others), as well as to fit out the institution with the Public Attorney's staff by appointing its deputies, advisers, expert collaborators and other administrative and technical staff.

As part of the necessary preparations general acts were passed by the Public Attorney by which this institution began its work on February 1 this year.

In spite of the short time limit of effective work, it is my estimation that it would be appropriate, in accordance with article 24 of the Law on Public Attorney, to table this report before the Assembly of the Republic of Macedonia in order to inform the Assembly about the preparations and the beginning of work of the Public Attorney as well as to get insight into the first results about the circumstances concerning violations of constitutional and legal rights of citizens by bodies of state administration and other organs and agencies with public mandates. By doing so, the Assembly, as a representative organ of citizens and a bearer of the legislative power in the Republic, is enabled to have political control over the application of the laws in this segment of the administrative functioning.

## 1. PREPARATIONS FOR THE BEGINNING OF WORK

The preparations and all activities concerning the provision of the necessary prerequisites for the beginning of the Public Attorney's work within the fixed terms, aimed at several directions: providing the necessary material, technical and other conditions, establishing a competent personnel, passing general acts, particularly completing normatively the procedure concerning the citizens applications and finding forms, modes and methods for their efficient, timely and operative proceeding. Particular attention was paid to the provision of the staff necessary for the work of this institution as well as other preparations and activities which were important for the beginning of its work.

Parallely, the Public Attorney had prepared a complete concept concerning the organisation and the activity of this Institution which he proposed to the Assembly of the Republic of Macedonia, the same being accepted on the meeting held on September 27<sup>th</sup> 1997.

## **2. PERSONNEL, LODGING, STATE OF EQUIPMENT AND PROVISION OF MEANS OF WORK**

Apart of its deputies, the Public Attorney as a unique organ functions via three organisational units with 28 occupied posts out of the total 41 which have been systematised: the unit for study and analyses with 13 employees, the unit for records, documentation and software with 3 employees and the unit for financial, administrative and technical work with 12 employees.

These posts have been filled gradually. The further filling of the vacancies will be done with the same dynamics depending on the development of the particular organ and the oncoming requirements for efficient accomplishment of its function.

The Institution Public Attorney is located on the first floor of the business building of the building stock company „Pelagonija“ in Skopje, 2 Dimitrie Cupovski.

For the purpose of accomplishing the function of the Public Attorney 11.942.000,00 denars were allotted by the budget of the Republic of Macedonia .

It is estimated that the office space, the equipment and the available means supply the elementary conditions for work.

## **3. DOMAIN AND MODE OF WORK**

In accordance with the law, the general acts, the concretised method and mode of work fixed by the regulations of the Rule book, the Public Attorney carries out the activities within its domain as a separate, independent and impartial organ, a unique one on the whole territory of the Republic of Macedonia with a main office in Skopje.

The Public Attorney will undertake actions and will carry out his functions in such a manner that certain deputies will be directly responsible for certain regions of the Republic. In that way efficient and timely acting will be provided when noting certain signals of violation of citizens' rights as well as velocity in remedying those rights which have already been violated.

Many countries have already recognised this principle of work from their own experience. It makes it possible, in a way, by concentrating the personnel in a sole organ, specialisation of the same in the fields closer to the domain of citizen rights which are objectively most susceptible to abuses, such as: the field of urbanism, social rights, legal property relationships, employment rights and others similar to these.

Following this mode of work, the Public Attorney makes it possible for legal, efficient, objective, impartial and rational performing of the duties, assignments, functions and competences which come from the Constitution and the Law providing equal, identical and uniformed protection of the constitutional and legal rights of the citizens.

#### **4. ACCOMPLISHMENT OF THE DOMAIN OF WORK**

Immediately after the election of the Public Attorney, the citizens of the Republic of Macedonia have begun submitting their applications and making personal contacts with him. They have been also making telephone calls requiring appropriate interventions on part of the authorised organs.

The number of applications submitted by 337 citizens to March 31 1998 inclusive is 205. 187 citizens had a conversation in the office of the Public Attorney and the number of those who made telephone calls is also considerable.

The data disclosed here point to the fact that the citizens of the Republic of Macedonia have been informed about the existence of this institution and are already accomplishing matters of interest in that regard.

Most of the applications submitted, which claim protection of rights, are from the domain of urbanism, civil engineering and protection of human environment (41 or 20 %), judiciary (29 or 14,14 %), housing (21 or 10,24 %), social protection (19 or 9,26 %), legal property relationships (13 or 6,34 %), public services (12 or 5,85 %), constitutional freedoms and rights (8 or 3,90 %), finances (4 or 1,95 %), customs (1 or 0,48 %) and others.

The requests submitted by citizens, who consider that there has been violation of their rights in the domain of urbanism, civil engineering and protection of human environment, are concerned with unfounded decisions which deprive them of using building land, not carrying out decisions about illegally built objects, not carrying out the city plans, not issuing work permits for dealing in the economic sector as well as unfounded issuing of the same, dragging out of the procedures, abuse of the institution „administrative silence“ and others similar to these.

The request concerning the domain of employment relationships refer to violation of the procedures of reassigning employees and managers in organs and agencies, violation of the procedure of electing managers, not paying the fees for old-age pensions, disability insurance, medical care etc.

The applications concerning the domain of judiciary refer to dragging out of the procedure, partiality in making decisions, making claims that the case should be decided on their side etc.

The applications from the domain of housing refer to violation of procedures when selling housing and office space, procedures when allotting apartments, dragging out of the procedures, violation of the procedure when handing down decisions to deprive somebody of his right to occupy an apartment and other cases similar to these.

The applications of the domain of social relationships refer to the violation of the procedure when establishing the right for public welfare, violation of the right concerning old-age pension, disability insurance and other requests for recognition of applicants social rights.

The applications submitted in the domain of legal property refer to the procedure of expropriation and accessing the financial compensation for the expropriated property, violation of rights when recording the property in the real estate registry, dragging out of the procedure concerning recording of the property rights, unfounded issuing, that is, not issuing an ownership certificate etc.

The applications of the domain of public services refer mostly to violation of the procedures when fixing the price of public utilities, postal services, unfounded expelling of a student out of the education process etc.

The applications concerning the domain of constitutional rights and freedoms refer to the cases of abuse of official authority of the representatives of the Ministry of internal affairs, dragging out of the procedure for admission and approval of citizenship of the Republic of Macedonia, refusing the same on unfounded grounds etc.

The applications in the domain of finances refer to violation of the procedure in the Administration for public income when setting the formation of the tax liability and the amount of the fixed tax.

The applications belonging to other domains, regardless of their considerable number, contain data which table of content does not allow to determine with certainty the domain which the violated rights belong to and the organ they refer to.

By providing the elementary conditions for work, the Public Attorney has undertaken actions concerning the applications, so that during this period 83 or 40,48 % out of the total 205 cases have been solved. In 23 cases or 27,71 %, the Public Attorney noted certain violations of citizens' rights which were corrected in 9 of them by his intervention. Three of these cases are from the domain of the social protection, two of them from judiciary and one in each of the following: legal property rights, housing, protection of the constitutional freedoms and rights of citizens and urbanism, civil engineering and protection of the human environment.

In the remaining 14 cases the Public Attorney noted certain violations and made appropriate decision for protecting the rights of the citizens having, however, no feedback yet from the competent organs or agencies. In 6 cases the Public Attorney proposed the organ or agency to reopen the respective procedure. In two cases these requests refer to a procedure concerning registration of property in public books, in one case to a reopening of the proce-

dure of electing and releasing of a school principal, in one case to pronouncing a pedagogical measure of expelling a pupil out of the educational process, in one case to reassignment of a worker to another job and in one case to an unfounded issuing of a permit for conditions for building. In the remaining 8 cases the Public Attorney gave appropriate recommendations, opinions, remarks and suggestions concerning the undertaken procedure, out of which 4 are from the field of urbanism, civil engineering and protection of human environment, two from the field of legal property relationships and each of the remaining two from the fields of education and judiciary.

The decisions concerning the discarded applications refer to the following fields: 14 to the field of judiciary, 10 to the field of protection of employment rights, 5 to the field of housing, 4 to social relationships and two in each of the following fields: legal property relationships, urbanism, civil engineering and protection of human environment and public services as well as 21 applications referring to other fields. Two cases concerning social relationships and customs were solved by passing a decision for breaking off the procedure.

Considerable number of the discarded applications refer to actions that are not within the domain of the Public Attorney, some of them concerning rights which have not been proceeded with any administrative procedure but from business associations or other organs or agencies without public authority. Some of them are within the jurisdiction of courts and the others were discarded once the Public Attorney noted that there was not any fundamental violation of citizens rights.

The information presented in this part of the report is of relative nature considering the above mentioned short period of time of Public Attorney's functioning. There is, however, basis on which it can be said that the organs and agencies which the Public Attorney has appealed to with his recommendations and suggestions, have mostly accepted the requests, submitting the respective information within the definite time. It is our estimation that the proposals, the recommendations and the suggestions have attained the expected effects in reaccomplishing the violated rights. With this respect, it is necessary to continue establishing and building the functional relations between this institution and the organs and agencies which actions are submitted to supervision, inspection and corresponding legal intervention on part of the Public Attorney.

## **5. OPENNESS OF THE WORK OF PUBLIC ATTORNEY**

In favour of the public affirmation, which directly affects the whole work of the Public Attorney, he has already undertaken certain activities informing the public on several occasions about the establishment of the institution Public Attorney through the media. The Public Attorney has elaborated the activities and the authority within his domain, and, in that sense, he has also had several press conferences as well as numerous contacts with the Government, Ministries and other organs and representatives of organisations with public authority. In the context of this, and for the purpose of getting broader information about the conditions concerning this domain, contacts have been made with other governmental and nongovernmental organs and agencies in the Republic.

## **6. CONTACTS WITH INTERNATIONAL ORGANIZATIONS AND OMBUDSMEN FROM OTHER COUNTRIES**

The Public Attorney has made many contacts with representatives of European and other than European international organisations and associations.

Most of the representatives of the international organisations and other governmental and non-governmental associations that have visited the Republic of Macedonia asked for and made contacts with the Public Attorney during which great interest was shown for the domain of work, the constitutional and legal setting up of the Public Attorney as well as for the guarantees that this Institution is capable of accomplishing its function independently. An unanimous opinion was reached about the character and the high reputation of this Institution in other democratic legal systems with long-standing democratic tradition, along with the convince meant that this organ will be able to act successfully within the framework of the legal system of the Republic of Macedonia .

For the purpose of exchanging experiences, contacts have been made with the Ombudsman of the Republic of Slovenia, Republic of Croatia and the Kingdom of Sweden, during which agreements have been reached for constant exchange of materials and information about the work of Ombudsman. With this respect, visits to the Polish and the English Ombudsman are planned, as well as certain activities which have already been undertaken for the purpose of joining the European Ombudsman Institute, an association founded in 1982 with its main office in Innsbruck, Austria. This association undertakes activities of coordinating the Institutions Ombudsman for the purpose of establishing appropriate mutual communication as well as exchange of experience.

## **7. ACTIVITIES TO COME**

Apart of the authorised activities concerning the work on the applications, there are a number of other activities to come which are to be realised in accordance with the program, continually and with real dynamics. Namely, there are acts to be completed on normative plan for concrete and detailed defining of the forms, modes and methods necessary for successful accomplishment of the functions and authorisations which have been fixed by the Constitution, the Law and the regulations, as well as for further constant complementation of the modes and methods of work concerning the domain of the Public Attorney, while attempting at the same time to act operatively and accurately and to obtain the necessary efficiency.

When working on its subject, the Public Attorney will point out, make suggestions and give opinions in order to overcome the defects and to find remedy for the violations which have been made concerning citizens rights and freedoms.

The Public Attorney will continue to inform the public about the characteristic violations of the citizens' rights, undertaking actions for re-establishing the violated legality and deciding positively on the rights of the citizens. For this purpose, issuing of bulletins, booklets and informative devices is planned, all of them being accessible for all citizens, organs and agencies.

The Public Attorney acting preventively when accomplishing its function, will follow the situation in the domains of accomplishment and protection of citizen's rights and freedoms and, in line of his duty, will supervise organs and agencies, having been authorised for such actions, with a purpose to have a complete insight into accomplishment and protection of constitutional and legal rights of citizen's.