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REPORT ON THE ACTIVITIES OF THE SVERDLOVSK REGION OMBUDSMAN IN 2005

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Introduction

Annual report on the results of the activities of the Sverdlovsk region Ombudsman is prepared in accordance with Article 14 of the Regional Law on the Sverdlovsk region Ombudsman and is sent up to the Legislative Assembly of the Sverdlovsk region, Sverdlovsk region government as well as to the RF Ombudsman and to the Chairman of the RF Presidential Council facilitating the development of human rights and civil society institutes in the RF subjects. The report is also sent up to the Federation Council members, deputies of the State Duma and Federal Assembly of the RF (from the Sverdlovsk region), as well as to the Foundation of the European Institute of Ombudsman whose member the Sverdlovsk region Ombudsman is.

The Report is based first of all on the analyses of the registered complaints and applications of citizens, information received by Ombudsman and his colleagues during their visits to business organizations, during acception of citizens and meetings with the local people. The Report also uses materials obtained during special visits to prisons and isolation cells of temporary detention, talks with homeless people and investigation of cases of sex and age discrimination in the Sverdlovsk region. Materials of conferences, seminars and round tables held or attended by the Sverdlovsk region Ombudsman, information supplied by state agencies and non-governmental, Human Rights Watch, and mass media is also used in the report.

The purpose of this Report is to inform the government bodies and population about the activities of Ombudsman as well as to attract all branches of power, functionaries and public to the problems of human rights and freedoms and to further enhance guarantees of state legal protection of the people living in the Sverdlovsk region.

“When deliberately or subconsciously a functionary goes wrong and makes a slip...”

This is my fifth Report on Ombudsman of the Sverdlovsk region. And my desire is that changes for the better were seen in every sphere. And it seems that such favorable changes do occur. But nevertheless Ombudsman's mail oozes with pain. When I read certain letters I feel as if it were my first mouth as Ombudsman because I fear that I won't be able to help.

“It's already four months that we, parents, cannot get in touch with our son. Our son decided to go to the army of his own accord, he served very well and

would never desert, his desire was to continue in the army on contract. We, his parents, suppose that our son either murdered or sold into slavery.

It seems that the state needed my son in the army and the boy honestly fulfilled his duty to the end. But something awful happened and both the army and the government no longer wanted our son. So now we (the parents) are forced to search for our boy ourselves.

I held my own investigations; I interrogated soldiers in the presence of the district police officer. My son is characterized very favorably. He was promoted to sergeant, tank commander, section leader.

Dear Tatyana Georgievna, please, help us to find our son alive or dead. October 5, 2005". (Appl.№05-13/2223)

I'll be frank with you, letters like this one become less frequent. But even if there is only one such letter we must do everything for it to become the very last one. In this particular case we found the sergeant and his captain is now under military tribunal in Ekaterinburg for exceeding authority.

This year when I visit military units I can't help seeing changes for the better. Officers' wages were doubled which improved their attitudes. Of course, noticeable changes for the better took place in the units that switched to contract service.

All comparisons for the five-year period are in favor of today. In my first Report I wrote that in one of the largest military units of the Volga-Ural military district (unit №32) bread was made from a mixture of sawdust and grain. Now soldiers are satisfied with their food.

As for abuses in the army – the fighting efforts of Committees of Soldiers' Mothers are focused on them.

The conditions for future soldier have been noticeably improved. Now when a draftee finds himself recruiting station in Trifonovo he feels a special respect for the future soldier. This recruiting station resembles a n-star hotel. But I would like that not only the walls but the atmosphere in the army improved. And not only in the army.

When once I was holding reception a father and son from a small town of Rezh applied to me: "Don't you recognize us?" asked the father. This is that very Grisha whom we were saving a few years ago". It took me some time to recognize in this tall young man the then boy Grisha for whose life were fighting the parents and oncohaematological ward of the Regional Children's Hospital №1.

I must now confess I didn't believe it was possible to save the boy. And only the doctor's and parents' zealously allowed for a weak hope for miracle. The Hospital was short of finance, so the Rezh Mechanical Plant assisted to buy a fridge. The money to buy German medicine was collected by joint effort of many individuals and businesses.

And Grisha's father is worried that his son will be stricken off the roll of officially invalidated. I was glad that that was the problem: it might be much worse.

All the doctor's efforts were not in vain. Today according to specialists this is one of the best oncohaematological clinics in the world. The doctors can save and do save children. But why then the experts from Medical Sanitary Expertise do

not value the results of the oncohaematologists' efforts? Formally Grisha's health is fine. But his doctors are worried how he will manage puberty... of course I asked experts from MSE to pay special attention to this boy's past history. It is a pity but in the current Report I must point out that last year invalidity was attached not only by medical means but by Ministry of Health orders and decrees which made conditions for recognizing invalidity more strict.

I would like to warn everybody: new walls and modern equipment will be fruitless without human factor. The most modern technologies will never help us if we stay heartless and severe.

The variety of Ombudsman's mail is wonderful. But sometimes I don't know what to say in answer. But despite this variety one theme remains the same: veterans' fear how they will be buried, where they will get the money for the funeral.

they have well-grounded reasons to worry because of the unfavorable changes in the Civil Code, disappearance of the state insurance company "Gosstrakh", numerous bankruptcies of plants, businesses etc., reforms of federal agencies...

It is with bitterness that I read letters like the one from Alapayevsk: "I am a former worker of closed joint stock company Alapayevsk ferroalloy Company. In February 2004 I lost the job because the company was liquidated because of wages debts: in 2003 it didn't pay 5729 mln. roubles, in 2004 – 3157 mln. roubles. The total sum is 8886 mln. roubles. My son worked at this company for 4 months and he was never paid (his unpaid wages amounts to 1861 rouble). Order of court is enclosed in this letter.

I addressed the manager not once, but every time he said there was no money. As for the order of court, they say if there is manager the court can do nothing to influence him. Since 2001 till Feb. 2004 I worked without leave, then the company was liquidated and I never get my money. I have worked for the company over 42 years. I do not want to give my fair money away. My pension is only 2700 roubles, so I need what they owe me badly. What should I do in such circumstances? All my hopes are with you, Tatyana Georgievna! Help me, please!" (Appeal № 06-13/4)

It is a pity, but never have I come across a favorable assessment of manager's efforts, especially of bailiffs from Alapayevsk.

Another worker from Alapayevsk didn't get his wages since 1998. When he appealed to the local court y won the case and took the order of court to local bailiffs but they didn't fulfill the order. So Nikolai Ivanovitch appealed to European Court which acknowledged the letter feasible and appointed the date of trial. After this became known in Alapayevsk in just a couple of days the bailiffs fulfilled the order of court which had been passed 5 years before. What a shame!

I hope very much that we'll be able to help the woman from Alapayevsk without appealing to Strasbourg. We have enough power, only there must be desire to help...

Before I sat down to this Report I reread the Report of my colleague from Volksauwalt in Austria Dr. Peter Kostelka: "Ombudsman's office must interfere as

assistance of any person but at the same time always as highest state body whose assessment can and must become guidance for activities in every case when consciously or subconsciously an official goes wrong and makes a slip."

Our colleagues in other countries receive as many appeals and people as we do in this country. Only their problems are different and seem simpler than those in Russia, but I hope for the better.

And there are certainly changes for the better: the past five years testify to this improvement. But we won't be able to change the situation in this country for the better without merciless analysis of lawlessness described in this Report.

Citizens' Appeals

In 2005 Ombudsman of Sverdlovsk region received 4014 (in 2004 - 3539) written applications and appeals of citizens about violations of their rights and freedoms. During the year 2005 Ombudsman of Sverdlovsk region personally received 1941 citizens, the overall number received by the office of Ombudsman amounted to 7195.

On 52 occasions Ombudsman held reception of citizens in different towns and settlements of the region such as Arti, Baikalovo, Beryozovskiy, Bogdanovitch, Verkhoturye, Verkhnyaya Salda, Katchkanar, Nevyansk, Serov and others. Three receptions were attended by lawyers from the Union rights defending organizations of the Sverdlovsk region.

Compared with previous year the number of applicants grew by 9%, which testifies to social acknowledgement of the institute of Ombudsman, who won prestige and trust of the people, to more active position of ordinary people in the cause of protecting their rights and freedoms on the one hand, and to incessant violation and infringement of human rights on the other.

In 2005 Ombudsman received applications and appeals from all parts of the region: most of them (37,8%) came from Ekaterinburg, second came Nizhniy Tagil, (7.9%), then Kamensk-Uralsky (2.5%), then Gary (2.3%), Tavda (1.8%) and Revda (1.6%).

The authors of more than half of all complaints and applications were women. They try to protect both their own rights and the rights of their children and family. Collective appeals make up 3% of the total number.

The most part of those seeking legal protection are old people: pensioners, veterans and disabled. Their applications amount to 20%. 35% of all complaints came from people serving sentences in penitentiary institutions and their relatives; 2,9% of applications came from foreigners, persons without citizenship and immigrants, 2% - from army servicemen and their relatives; 1,4% - from orphans and their guardians; 1,3% - from people in the rural places; 0,7% - from parents having many children; 0,4% - from citizens without definite place of living and 27% from other categories.

Most complaints are caused by violations of social rights – about 35% of the total number of complaints, 5% of those involves violations of housing law, 5% are about violations of labour rights, 3.5% - violations of the right to health

protection and medical care, 8% - violations of the right to social insurance, social assistance and guarantees.

10% of all complaints are caused by the violation of personal rights and freedoms of citizens most of which involve granting of civic rights, passport and registration – 49%.

3% of applicants announced that their economic rights were violated.

345 of applications from convicts are connected with the review of sentence, 40% - with unlawful actions of guards and inadequate conditions.

11% of complaints are caused by the lack of actions on the part of law-protecting bodies, 15% are appeals against sentences, about 7% asked for assistance in mounting suits, appeals to European court, 4% of applications were actually thank- you letters for the rendered assistance.

Waiting as long as life...

Complaints and appeals received by Ombudsman testify to still widely spread violations of social and economic rights of citizens. Individual and collective complaints thereof amount to 35% of the total number of applications. They mostly pertain to the questions of social support measures, implementation of the right to social insurance and medical care, as well as housing and labour rights.

Federal law №122-FC passed on August 22, 2004 significantly transformed the longstanding system of privileges and advantages. Substitution of natural advantages for monetary compensations turned out the most painful social innovation of the past year because the most vulnerable layers of population – veterans, disabled, Nazi victims, families of the deceased war invalids and the like fell victims. And the way this new law was being implemented also caused a very negative reaction, especially at the beginning, when many categories were deprived of their privileges (disabled).

Invalids were among those unlucky. In the course of the year 2005 invalids including those of the Great Patriotic War appealed to Ombudsman and to Ministry of social insurance with questions about their right to transport service (Appl. №№05-13/405, 05-13/496, and others).

Formally Ural invalids had the right to use special means of transport as rehabilitation means free of charge. But Act №122-FC passed on August 22, 2004 and a number of amendments to Federal Law “of social protection of invalids in RF” deprived them of these privileges: it was cancelled on the 1st January 2005. Instead of wheelchair invalids were allotted 950 roubles as monetary compensation and so-called “social package”.

Hence arises the question: how are those people supposed to arrange their life if the very notion of rehabilitation supposes that invalids must be able to take care of themselves and carry independent lives? Community transport is unavailable for them whereas taxi is very expensive. When they had cars wheelchair invalids were able to go to work or place of study, to hospitals, now they are deprived of this opportunity. It is not clear where an invalid can get 90-100 thousand roubles to buy a small car “Oka”.

In 2005 only 3931 cars could be bought on Federal money (153000 cars are needed), in 2006 the Federal budget envisages the same amount of money for invalids to buy those small cars, so if nothing changes the last Russian wheelchair invalid who is now registered will get his car not sooner than in 40 years... And this is within Russia, as for the Sverdlovsk region the situation here is much worse: invalids can get cars in 700 years... It is clear that most of war invalids will die before they get the notorious "happy letters".

But it is unfair to ascertain that war veterans are completely forgotten and neglected: in 2005 all war veterans of the Sverdlovsk region got telephone communication service.

On the instructions of the Governor of the Sverdlovsk region Ministry of industry, energy and science of the Sverdlovsk region together with Ekaterinburg branch of joint stock companies "Uralsvyazinform", "Ural telephone Co." And "Telephone Co. Ural" installed 665 stationary telephones and thus saturated the needs completely.

We must also thank operators of mobile communication who presented 329 mobile phones to war veterans.

It is nice to mention that in 2006 at least one category of complaints to Ombudsman will become matter of the past.

On March 30, 2005 President of Russia passed Decree №363 according to which veterans and invalids of wars and their widows will get additional monthly payments of 500 to 1000 roubles.

There were only few problems with the implementation of this order, and those were easily settled in most cases.

For example in October 2005 Ombudsman received a complaint from a woman in Refinsky who was denied this payment, though she was widow of the Great Patriotic War invalid. After the check-up on the part of Ombudsman the applicant's claim was acknowledged legitimate and she was paid all the money. As favorably was decided the case of another widow (Appl. №05-13/2213).

In 2005 a rather big number of applicants sought help in granting them veteran's status accompanied with a host of measures of social insurance.

In May 2005 citizen C. appealed to Ombudsman (Appl. №05-13/1219) with a request to assist her in getting status of Great Patriotic War veteran (server of the home front). She had a document which certified that she had worked during the War, but the local social security functionaries said it was insufficient. Ombudsman made this unfavorable decision reviewed and on October 19, 2005 citizen C. got her ID of the War II veteran.

Initial steps in implementing the state policy of granting social support in the form of so-called "social package" were accompanied by certain difficulties and problems.

Citizen E. From Kamishlov who is invalid of II group found himself in not an ordinary predicament (Appl. №05-13/2158). He was granted a term in sanatorium in the Sverdlovsk region. However his stay in the sanatorium wasn't longer than 5 days after which he was sent home. E. said he never got any medical

treatment at the sanatorium. When E. applied to different agencies for another accommodation in a sanatorium he was denied.

The existing legal norms specify in every detail the order of selecting citizens for sanatorium treatment and treatment itself, but do not contain any directions about legal consequences of discharge from sanatorium ahead of schedule. Citizen E.'s appeal to Ombudsman was carefully studied by a special Commission on social insurance foundation of the Health Ministry of the Sverdlovsk region and as a result E. was sent to another sanatorium ("Sosnovy Bor") for the remaining time.

Very sharp complaints about unlawful infringements of the right to housing - communal privileges come from rural teachers (Appl. №05-13/161, 05-13/2041).

According to RF Act №3266-1 of July 10, 1992 "On Workers of education" workers of educational institutions in the rural areas have the right to free housing with heating and light. All the expenses are determined in legal Acts of RF subjects.

In this particular case the teachers complained that the norms of free housing, heating and lighting were less according to regional Acts, than those determined in the federal Act. As a result the Sverdlovsk region Government passed a new decree of 27.10.2005 №927-PP according to which Ural teachers were returned their right to free housing, heating and lighting in full.

At the same time certain categories of citizens touched upon a serious problem which arose in connection with the implementation of Federal law №122-FC: those people had reasons to get social support on several grounds because they belonged to several categories at the same time.

Example of K. (Appl. №05-13/2622) from Reftinsky is very demonstrative. K. is a rural teacher who had worked for 53 years and who was presented with the Order "Badge of Honor" and other governmental rewards. At the same time K. is the widow of a War II invalid. She has the right to apply to both federal and regional privileges, but the regional agency of social insurance deprived her of social support as rural teacher.

In their letter to Ombudsman (№05-13/2622 dated 21.12.2005) functionaries said that as a federal privilege receiver K. may pay only 50% for communal services. According to federal act №122-FC of 22.08.2004 if a person has grounds to get measures of social insurance on the federal level, he is automatically registered as federal privileges receiver and can not apply for federal privileges.

As soon as such reading of laws is extremely widely spread I want to clarify the misunderstanding of those laws.

1. The notion "federal register" and "regional register" of privilege receivers is simply nonexistent in legislation. There does exist the federal register of persons eligible for the state social insurance according to Act "On the state social insurance". However, this Act does not regulate the relationships connected with granting privileges ascertained in the RF legislation. Therefore it is not lawful to refer to certain regional or federal registers.

2. Current approach to granting privileges, when only one grounding is taken into account notwithstanding that in certain cases there are several such

grounds is not founded on law, Exactly the Law says: "if a veteran had the right to one and the same form of social support on several grounds it is granted on only one ground selected by the receiver with the exception of cases envisaged in legislation". (p. 3 article 13 of FA "on veterans". Hence we infer that when a veteran has the right to different forms of social support on several grounds he may not be denied the right to getting those privileges.

This norm refers only to veterans and not to other categories like invalids and rehabilitated.

In the light of all said I appeal to both legislative and executive bodies of the Sverdlovsk region to find in the year 2006 ways of settling this problem.

Citizen S. from Nizhniy Tagil, invalid awarded with the sign "Citizen of blockaded Leningrad" asks Ombudsman why she has no right to 50% exemption for telephone services, radio and collective aeriels, whereas to people having the same award but who are not invalids this privilege is granted? (Appl. №05-13/2650).

Indeed, article 7 of Sverdlovsk region Law of November 25, 2004 №190-FC "On social support of veterans in Sverdlovsk region" which determines measures of social support for "blockadniks" excludes invalids. I think that this collision should be paid special attention to by deputies to legislative assembly of the Sverdlovsk region.

Two more people (Appl. №05-13/745(2) and №05-13/1822) from Nevyansk and Reftinsky respectively, complained to Ombudsman about unlawful denial of privileges for communal services. After a thorough check-up the denials in both cases were found unlawful and both applicants got their rightful privileges.

The year 2005 marked a significant increase of the number of applications about ascertainment of invalidity (Appl. №№05-13/1600, 05-13/2148, 05-13/2743 etc.).

This inflow is caused by the fact that on the 1st of January 2004 came into force federal acts: of December 15, 2001 №166-FC "On state pensionary maintenance in RF" and on December 17, 2001 "on retirement pensions in RF" according to which disability pensions are determined by the limitation of the ability to work, the limitation may be of III, II and I degree.

So now state agencies of medical-social expertise ascertain simultaneously the group of invalidity and degree of limitation of the ability to work.

Hence the amount of disability pension is determined primarily by this criterion.

Formerly everything was rather simple: the loss of a whole organ or half of it, of an arm, of an eye, inability of organism to fulfill natural functions in full was treated by medical social experts as loss of vital functions entailing loss of ability to work. The problem was only about the group of disability: the IIIrd when a person was able to work or the IInd or Ist when invalid could not work, and upon the granted group of disability depended the amount of pension and privileges. Invalids of the IIIrd group who by definition of law could work, were not paid pensions or granted privileges.

Of late the situation changed radically. It turned out that invalids could and ought to be assessed by the ability to work (or rather inability). Roughly speaking if a lawyer or an accountant has no legs he is still able to professional work because his/her head is in place and functions. The idea seems reasonable because it enables invalids to organize their lives themselves without hope for state support. But in real life everything is much more complicated.

First of all, the analysis of citizens' applications revealed a stable tendency when invalids of different groups more often than not get a lighter degree of limitation of the ability to work. Moreover in more and more cases invalids are ascertained as at all able to full-fledged work and get the so-called zero group of limitation of ability to work which means not only smaller disability pensions but their calling off.

What such invalid can get is monthly payment of 500 roubles, social package and housing-communal privileges, and that's it.

Citizen K. in 2001 as a result of a road accident had 2nd, 3rd, 4th and 5th fingers on both hands amputated (Appl. №05-13/992). In October 2001 he was given the IInd disability group. But in 2002 as a result of reexamination his disability group was lifted to IIIrd, and in 2003 his invalidity was totally cancelled: group number III of medical social experts of the Sverdlovsk region reaffirmed that K. had no grounds for ascertainment of disability.

Invalid P. (Appl. №05-13/2592) writes bitterly: "I am a blind invalid of group I, besides pension I got additional payment to hire an attending person to take care of me. On 19th October 2004 I was reexamined and as a result my disability group was now IInd and additional payment was cancelled. The doctor said I was young, handsome and was able to make baskets... I am 60 years old, totally blind and I can not work in a special establishment – there are no such establishments in Serov where I live; and I can't make baskets, and nobody needs them here".

I can't but agree with the opinion expressed by V.P. Lukin, RF Ombudsman, who said that "indeed now that we come to think of it the Government when planning the report did not take into account how many disabled and invalids there are in Russia and now they are trying to cut this number by all possible (or rather impossible) means".

Secondly, according to former legislation organizations with over 30 workers had quotas for invalids (not more than 4% and not less than 2%). Now according to amendments set in act №122-FC "On social insurance in RF" this quota is set only for organizations with over 100 workers. As a result the jobs for invalids were cut, so it became more difficult for a disabled to find a job.

Thus the state forced its invalids to work but did not guarantee the right to work. The labour market does not want invalids.

This is why the number of applications to Ombudsman on the part of invalids grows steadily.

Questions of pensions remain the most painful ones in Ombudsman's mail. As is known the current innovations touch upon the mechanisms of assigning pensions. Now every pension consists of three parts – basic part (guaranteed by

state), insured part (not contributory part formed by employer) and accumulated part (formed by the future pensioner himself). The length of service lost its significance, but there appeared the so-called non-contributory period when the employer made allocations to pension fund for his employee.

According to p.1 art.20 of FA "On obligatory retirement insurance" accounted pension capital is formed by the total sum of insurance contributions and other receipts for financing of non-contributory part of retirement pay, which were received by the budget of the RF Pension Fund for the insured person on the basis of personified record.

if for certain reasons the employer wouldn't install contribution the employee's retirement pay will be smaller. When there are no installments there is no addition to pension.

thus pensioners suffer direct damage by way of diminished pays and in certain cases people even lose the right to retirement pay at all.

Complaints about infringement of citizens' right to retirement pay due to lack of installments to pension fund which were received by Ombudsman during the year of 2005 testify to acuteness of the problem.

For example Ombudsman was addressed by citizen O. who complained about infringement of his right to retirement pay. As it turned out his employer "Turbomotorny Zavod" (turbo motor works) did not install contributions for O. in 2003-2004, so O.'s retirement pay was smaller than it ought to be. In 2004 the Works was acknowledged bankrupt and O.'s pension rights were not restored.

As soon as similar cases are quite typical I think it is necessary to toughen the practice of law suits against employers responsible for noninstallment of insurance payments. And it is also necessary to fill gaps in the law thanks to which retirement pay can be made smaller than they ought to be. Every employer should be aware that he or she can be personally sued for not installing contributions to the Pension Fund as well as for nonpay of wages. So far this seems to be a moral dilemma for employer rather than his/her duty.

When infringement of pension rights was caused by other reasons than legal inadequacies Ombudsman's efforts to help were quite fruitful.

In July 2005 woman O. from Asbest complained (Appl. №05-13/1533) that she was left without retirement pay in July 2004 through the pension agency's fault. As was revealed in the course of a check up Judicial Department of Ulyanovsk Region in March 2004 adapted a decision about monthly reimbursement to O. as widow of deceased retired judge. Later, on the 1st July, 2005 O. lost this right to monthly payment and O. appealed to the Pension Fund in Asbest where she was now living to grant retirement pay which was indeed granted O. but only in August 2004, thus she got no money in July that year. After Ombudsman interfered in this case O. was paid what they owed her and everything was settled.

When Ombudsman was holding reception in Irbit citizen Kh. complained about inadequate actions of the officials from Pension Fund in Irbit district (Appl. №05-13/1307). The complainant was granted old-age pension on November 19, 2003 in Naberezhny Tchelny where she was then residing. In 2005 Kh. moved to

Irbit and applied to the local Pension Fund agency to transfer her pension to a new address. As the applicant says on March 10, 2005 representatives of the local Pension Fund told her that she had no right to pension and her case was forwarded to the pension agency in Naberezhny Tchelny.

Ombudsman applied to the RF Pension Fund in the Sverdlovsk region to check about the validity of the decision to stop Kh.'s pay. As a result Kh. was paid all the money for the period from March 1st to August 31st 2005 totaling to 14548 roubles.

In the year 2005 the number of complaints about violations in the sphere of labour made only 5% of the total amount of complaints which is much less than before and this is due to active position and effective measures taken lately by procurator's office and the Sverdlovsk region Government.

I must pay special tribute to the procurator's of the Sverdlovsk region which effectively used such instruments as suing unconscientious employers for nonpay of wages, pensions, stipends, scholarships and allowances etc. (Art. 145-1).

In 2005 procurator's office brought 74 criminal cases about preconceived non-pay of wages; 39 such cases were taken to court.

Thus A.A. Parvatorov, head of 'Isetskoye' co-operative in Kamensky district, was sentenced to 3 years with probation for preconceived non-pay of wages of 74 employees amounting to 3 mln roubles.

Another head of works ('Ufimkaenergосervice' A.A. Podgorbunsky (Acht district) was sentenced to pay 150 mln roubles.

These judicial measures assisted in cutting down wage-debts in the region by 1,3 times and the number of debt-enterprises is now half of the former number (89 vs 177 formerly).

Cooperation of Ombudsman with procurator's office in the cause of guaranteeing citizens' rights in the social sphere was of constructive character and in most cases brought favourable results.

In May 2005 Ombudsman received a collective application of former employees of municipal works 'Pokrovskoye' in which they complained that they had not been paid welfare payments during downsizing of the works (appl.№ 05-13/1121).

After Ombudsman appealed to procurator's office of Kamensky district most effective measures were taken to restore the applicants' rights: mandatory court order was issued for 'Pokrovskoye' works to pay indebted wages. As a result the wages were paid.

As constructively Ombudsman cooperates with the State labour inspection agency of the Sverdlovsk Region when people complain about infringement of their right to work.

Citizen Z. Complained to Ombudsman to about infringement of his labour right by the administration of Closed joint Stock Society 'Sverdltvortmet' (appl. №05-13/1343). According to X. when he was dismissed from the works his service record was not returned to him and he was not given final settlement which was flagrant breach of Art. 80, 140 of RF Labour Code.

Ombudsman found it necessary to demand that managers of 'Sverdltvornet' eliminate violation of Z.'s rights. Besides Ombudsman asked State Labour Inspection of Sverdlovsk Region to check all the circumstances described in Z.'s letter. As a result Z.'s rights were fully restored, his manager (P.S.Jyryev) was brought to administrative account.

Similar problems had citizen I. from Alapayevsk who worked at 'Neftekom' Ltd. She said E.G.Timofeyev, the director, did not give her service record and final settlement when she was dismissed and shouted rudely at her when she wanted to be explained. (appl.№05-13/2525).

The check up held by the State Labour Inspection of the Sverdlovsk Region at Ombudsman's request revealed that I.'s rights had indeed been violated. As a result director of 'Neftekom' was ordered to pay 1000 roubles as fine and I. Was paid compensation of 5615 roubles.

In the year 2005 Ombudsman continued to receive applications from people who had suffered nazi prosecution during World War II. They mostly complained that they were not given status and denied compensation.

Thus in July 2005 during personal reception was addressed by citizen G., who complained about the denial of such compensation. She also said that she had not received any answer from the Foundation of Mutual Understanding and Reconciliation which has the function of paying compensations (appl.№02-13/1213).

As a result of Ombudsman's appeal to Chairman of Board of Federal State institution 'Foundation of Mutual Understanding and Reconciliation' G.'s rights were restored and she was paid compensation.

Another citizen E., from Asbest (appl. №05-13/1485) complained about similar problem: the Foundation denied him compensation because there was no information about E.'s deportation. However E. insisted that he and his mother and his two sisters had been deported. Moreover the sisters got compensation from the Foundation.

Citizen U.'s problem was also settled favourably (appl.№05-13/491): after Ombudsman's interference the Foundation recognized U.'s right compensation.

In civilized world, which we think we are part of, communal services are part and parcel of normal living conditions. That is why nonexistence of communal services can be regarded as violation of the right to decent living standard.

More often than not Ombudsman was addressed with complaints about the quality of communal services. In most cases particular problems were settled on spot, there and then, in other cases the situation called for further investigation and appeal to local executive bodies.

In April 2005 people from Kamennozhorskoe village appealed to Ombudsman to assist install gas in Kosmonavtov Street (appl.№ 05-13/951). The street was cut from central heating as early as 2002. The inhabitants collected money to install gas, bought gas boilers, gas meters, pipes, but there was no gas in 2002, 2003, 2004...

According to information from head of Bogdanovich district gas must be installed in this street in 2005 and 170 thousand rouble were allocated for this

purpose. The local authority body took into account the people's wishes and Ombudsman's request to raise financing up to 300 thousand roubles in order to solve the problem of gasification before winter cold weather settles.

Oh, my dwelling...

'The fact that joint stock company' 'Uralkhimmash' now has other managers, that there is argument about competence of functionaries, that they have no.

job instruction is of no significance for proper settlement of this argument and must not infringe lawful rights if RF citizens including the right to dwelling/housing guaranteed by RF Constitution.' This is how judge V.E.Balukovamotivatid dinial of 'Uralkhimmash's action to evict citizen T. from hostel without granting another housing (decision of 13.10.2005).

This court decision is an example of settling problems of eviciting from hostels. Frankly speaking I would appreciate more similar decisions, as unfortunately not every judge refers to RF Constitution norms.

Citizen T. complained to Ombudsman (appl. № 05-13/682) at the managers of open joint stock society "Uralkhimmash" for her eviction from the hostel at 20/2 Alpinistov St. Similar complaints came from citizen P.O. who was living in the same hostel with her little son and mother P.N. (appl. №№ 05-13/604, 05-13/1360).

All the three cases of eviction of T., P.O. and P.N. from the hostel were considered by judges V. E. Balukova, D.V. Kazantsev and O.I. Mamulina in Tchkalovsky district court in favour of these citizens and acknowledged their right to use the hostel as their dwelling. It was stated that their applicants had every right to live in the hostel because their permission was signed by the then director general of Uralkhimmash D.V.Tikhonov and they are registered at the place of living.

Another example is decision of Oktyabrsky district court's decision of 16.11.2005 (judge E.V. Grin) to decline joint stock society Uraltransgas's action to evict S.'s family from the hostel in 36, Beloyarsky St.

S. appealed to Ombudsman to assist defend her right to reside in the above mentioned hostel (appl. № 05-13/2412). S. has an invalid child who had undergone 5 neurological surgical operations and was then being prepared for the sixth operation. The family had to borrow money for the operation so they had no means to pay for communal services in 2003.

S. never declined to pay for the communal services, she only asked "Uraltransgas" to wait a little and when the company sued the action the debt had been settled and this is certified by the accountant's office of Uraltransgas. However, despite the termless agreement about using room in the hostel, the company decided to evict S.'s family with the gravely sick child.

Ombudsman managed to render qualified assistance in preparing a counter action and arranged services of a lawyer of the public reception of Ombudsman.

As a result, Oktyabrsky district court affirmed S.'s right to use the dwelling in the hostel.

One more example is how invalid D. Was allocated dwelling. D. was suffering from cerebral palsy and needed a dwelling near his polyclinic and relatives. He had been offered an apartment outside Ekaterinburg whereas according to legislation a dwelling with the city boundaries was due to D.

After Ombudsman's interference D. was given a new three-room apartment in 6, Patriotov St.

Ombudsman participates in the work group deciding the boundaries of Ekaterinburg. The expansion of the boundaries involves inclusion of 29 additional settlements many of which are rather far away from the city.

Ombudsman is much more worried by the situation when people who had been living in the central part of Ekaterinburg and whose dwellings are to be demolished are given new housing in remote parts like settlement Shuvakish or village Gorny Shchit. Infrastructure in those parts is not at all like in the centre of Ekaterinburg. Moreover, social links are severed in this process.

Application of citizen Kh. (appl. № 05-13/658) may serve as an example of unprofessional and simply inhumane actions on the part of Ekaterinburg administration and administration of Ordzhonikidzevsky district of Ekaterinburg. Citizen Kh. who had worked 17 years in the municipal enterprise (because disabled) and his family faced eviction from the so-called departmental dwelling.

Kh. appealed to Ombudsman, who addressed a letter to the head of administration of Ordzhonikidzevsky district with a request not to evict an invalid but the administration declined the request. After that Ombudsman arranged legal assistance to sue an action against the district administration.

Kh. had worked at "Gradmash" since September 27, 1985 as an assembly worker of sanitary-technical systems and equipment of communal services unit № 13. On July 19, 2002 he was transferred to "Ordzhonikidzevsky municipal enterprise" and worked there till November 25, 2002 when he was dismissed because of poor health (p. 3"а", art. 81 of RF Labour Code) and medically certified disablement.

Kh. and his family had occupied hired dwelling (a one-room apartment) in 11, "40 years of October" St. before they were given a two-room apartment in 19, "XXII Party Congress" St. by "Gradmash".

On April 4, 2002 he was given a writ certifying his right to live in this apartment together with his wife and daughter.

Everything was quite legal, but Ekaterinburg administration insisted that there was no writ and sued an action against Kh.

According to RF Constitution everyone has a right to dwelling and cannot be arbitrarily deprived of it. Bodies of local selfmanagement must create conditions for realisation of this right, but in certain cases they seem to hinder this and try to deprive one of this vital right.

In case of Prokopovitch vs. Russia Resolution of European Court on Human Rights of November 18, 2004 in p. 36 states that "Court reminds of precedent practice of the Convention agencies according to which the notion "dwelling" in

the meaning of art. 8 of Convention does not mean only "housing" which was legally built or taken. "Dwelling" is an autonomous notion which does not depend on classification in intrastate law. Whether a particular place of living is a "dwelling" depended by art. 8 p. 2 or not will depend on actual circumstances, namely on the existing sufficient and constant links with a particular place."

Kh.'s complaint is currently under control of Ombudsman. And it is a great pity that it is the most close to man power that is trying to evict him – organs of local selfmanagement.

One more example of Ombudsman's interference is the situation with the hostel in 37, Mashinostroiteley St. in Ekaterinburg. The details are described in Ombudsman's Report on her activities in 2004 (published in newspaper "Oblastnaya gazeta" of 19.02.2005).

According to court decision two families of Russian citizenship were evicted in order to let the vacated rooms to citizens of PR of China and SR of Vietnam respectively. I want to emphasise that solely for the sake of foreign subjects residing in this hostel who occupy four floors out of five exceptionally comfortable conditions were created (bar, play automachines, automated washing machines may be installed, etc.). Practically all of the foreign residents of the hostel trade at the market "Tagansky Ryad" and are not registered in Russia as labour immigrants. Russian subjects are left only on the 5th floor.

According to the Centre of passport-visa work with foreign citizens and persons without citizenship of the Main department of internal affairs of Sverdlovsk region (ref. № CC-08/20547 of 13.09.2005). 269 foreign citizens are registered at the address 37, Mashinostroiteley St.: of them 191 citizen of SR of Vietnam, 75 citizens of PR of China, 3 citizens of Georgia. Only 45 residents have Russian citizenship.

Having taken into account that the hostel is in federal ownership Ombudsman appealed to V.L.Nazarov, the Head of Federal Agency for Management of Federal Property (Rosimushchestvo), to curb the infringement of the rights of RF citizens (ref. № 05-11/193 of 29.07.2005).

Head of Rosimushchestvo phoned Ombudsman to inform that the facts stated in application were confirmed and as a result V.N.Kuzubov, director of Federal enterprise "Executive directorship of Ministry of Property of Russia", was dismissed. The Letter from Rosimushchestvo (ref. № CC-08/20547 of 13.09.2005) says A.V. Istyagin, head of Federal Logistics Centre, was ordered to strengthen passport-visa regime in the hostel.

Unfortunately, autumn of 2005 again witnessed eviction of a number of people from the hostel in 97a, Bolshakova St. in Ekaterinburg. All these years Ombudsman has been fighting such evictions.

In order to finally settle the eviction problem Ombudsman addressed RF Supreme Court in support of S.'s complaint (ref. № 05-15/217 of 20.04.2005). As a result, by definition of RF Supreme Court of 20.07.2005 the case of "NIIEnergozvetmet" against S. on eviction from the hostel was forwarded for consideration to the Presidium of the Court of Sverdlovsk region.

By resolution of Presidium of Sverdlovsk oblast Court of 21.09.2005 the decision of the court of Leninsky district of Ekaterinburg of 28.08.2001 and definition of court college for civil actions of Sverdlovsk region Court of 10.01.2002 was cancelled and the case was forwarded for new consideration by Leninsky district court of Ekaterinburg in new composition.

The resolution argues that court infringement of material and procedure laws is material and entails disaffirmation of unlawful court decision.

On December 14, 2005 Leninsky district court of Ekaterinburg issued a definition to leave the action without consideration because of persistent absence of the plaintiff in court. The court shall decide the action in favour of S. and her son, whose right to dwelling will be restored.

At present residents of the hostel can cancel other court decisions by applying to Presidium of Sverdlovsk oblast Court with a supervised complaint. Ombudsman is rendering qualified juridical assistance in preparing necessary documents.

Citizen U. also complained to Ombudsman of illegal eviction from the hostel in 97a, Bolshakova St.

On the 14th of November citizen U. was supposed to be once more evicted. She tried to protect her rights by all possible means: she collected 40 litres of gasoline and warned that she would burn herself in case of eviction. In order to prevent sorrowful events like citizen A.P. Semikov's death Ombudsman's representative went to the site.

Certainly, Ombudsman does not support such actions on the part of citizens, but heads of administration must take into account that people are desperate and ready commit such dreadful steps.

On November 11, 2005 Ombudsman applied to Prosecutors of Leninsky district of Ekaterinburg and Chief court bailiff of Sverdlovsk region not to evict citizen U.

Prosecutor's Office of Leninsky district reported that forced eviction was postponed (ref. № 02-01-05 of 15.11.2005).

Autumn 2005 shocked public with a tragic event which ended the case of eviction of citizen Semikov. The city shuddered but all the functionaries kept their positions. Moreover, Ombudsman was bombarded with cynical retorts from numerous bodies.

But the whole point is how deep and tragic the precipice between an ordinary man and bureaucracy is.

Semikov's apartment was given to citizen Sh. and her family. Not once Semikov appealed to various power structures to leave the apartment solely to his family without neighbours, or give him another even smaller apartment, but only a separate one. But neither Ekaterinburg's mayor nor head of Ordzhonikidzevsky district read his letters but gave them to the subordinates. In the end, V.I. Pustovalov, head of Ordzhonikidzevsky district, wrote to Semikov that he could solve the problem only in court.

Perhaps we do not need such power if the court will deal with the list of those in want of dwelling and moreover with housing itself? If one has to go straight to court because executive power would not deal with his or her problem.

Those events took place at the time of shameful fight of municipal council for its functionaries who became notoriously famous for their machinations with dwellings. I think that city leaders should give due appraisal to disreputable actions of their employees.

When I read mail about evictions in Zheleznodorozhny district, primarily about the Suyevalovs' eviction, when I met with employees of housing departments in district administrations I became assured in just one thing – instead of strategic policy in applying new Housing Code functionaries were taking good care of their own private interests. During the year 2005 Ombudsman did not receive even a simple answer where one could sense commiseration with people.

However, the meeting with P.P. Tugolukov held at his initiative showed his deep worry about the way

The new Housing Code was going to be implemented in 2006. All the agencies must co-operate in order to protect citizens' rights.

K.Ya. Krymin, deputy head of Ekaterinburg, managed to lessen tension between residents and communal services. Unfortunately, housing problems are solved only by Mr. Krymin personally. On the whole the city does not have any serious housing policy. It may seem that former policy of housing many people in small apartments is still in use.

Citizen G. (appl. № 05-13/1023) came to personal reception of Ombudsman to complain about the actions of Ekaterinburg administration which was awfully slow in tackling her housing problem, whereas the dwelling in 12, Selkorovskaya St. she was inhabiting was dilapidated.

According to the decision/resolution/ of Ekaterinburg mayor of 22.05.2003 residents of this dwelling were suggested to participate in partial share financing of the reconstruction of their dwelling. Some residents agreed to this but citizen G. had no means that's why she asked for social housing.

Ombudsman requested director of municipal enterprise "SUERZH" to inform of the measures referring to residents of 12, Selkorovskaya St. and citizen G. in particular.

K.Ya. Krymin informed Ombudsman (ref. № 01-19-3300 of 19.12.2005) that Ekaterinburg administration guaranteed to give citizen G. separate 2 room housing with all conveniences before 1.10.2006. In the meantime G. was offered a room in manouvre fund.

Taking into account the complex situation in many hostels in Ekaterinburg Ombudsman stroke an agreement with P.P. Kukushkin, Procurator of Sverdlovsk region, to hold a joint check up of a number of Ekaterinburg hostels.

M.M. Savtchin, deputy procurator of Sverdlovsk region, suggested (ref. № 7-18-05 of 09.11.2005) to join the check up and give concrete addresses of hostels and the aspects to be checked.

They have planned to check 30 hostels in Ekaterinburg residents of which filed complaints about infringed human rights. We are planning to study legality of

the stay of foreign citizens in these hostels, legality of evictions as well as legality of setting up hotels in the hostels.

In order to organize fruitful defence of the rights of residents of the hostels an interdepartmental Commission was set up including Ombudsman, A.G. Lysenko, head of territorial agency for management of federal property, Ye.V.Roizman, deputy of State Duma of the Federal Assembly of RF, A.V. Semyonov, deputy director of federal municipal enterprise "Ekran", D.V. Maksimov, director of open joint-stock society "Europe-Asia" and representatives of the Councils of hostel residents.

Its main purpose is to protect the rights of people residing in hostels and creating for them certain social and juridical guarantees for protection of their rights discussion of complex problems of Commission as well as moving amendments to new Housing Code of RF.

Unfortunately, new Housing Code of RF is somewhat dubious. The rights of people living in social housing are left practically unprotected, especially of those living in hostels.

For example, now according to art.102 of HC of RF any transfer of social housing to operative management of another juridical person entails curtailing of the agreement of hire of hire of such housing. It means that all the agreements are automatically severed and whether people will stay in their rooms will totally depend on the new owner's good will.

In this respect Labour Code is much better because it does not enslave the workers' collective or place it in full dependence of the new owner.

Art.103 of HC of RF allows eviction of single persons and their children of under age from hostels. Former Housing Code in p.12 art.108 did not allow eviction of such residents without giving them another housing.

Alas, new Housing Code does not protect complaints of departmental housing who had worked over 10 years at the given enterprise because now such residents may be evicted.

We are left to rely only on Federal Law "On introduction of Housing Code of RF" of 29 December 2004 which says that "to housing relations which had been set up before the introduction of HC of RF it is applied only in the part of the rights and duties which arise after the introduction of this code."

However, at present there is controversy between declared legal norms and actual practice of their use/application as well as in understanding and interpretation of the same legal norms.

That is why we are sure that the year 2006 will be rather tough in this respect. In this connection Ombudsman has planned a number of measures in order to bring housing right problems home to the makers of this Code.

There is now much ado about the for presidential programmes. I am afraid everything will stay in paper.

Today Ombudsman can clearly see only long lists of those in need of dwelling, everything else is opaque. To evict people is very easy. To help get housing is the President's task for the year 2006. So far people see all this only on TV. Whether an ordinary man will see the priority of this task is not so clear. But

Ombudsman is planning to pay special attention to this problem because the controversy is still urgent.

Extra Children

All the world besides the USA and Somalia have signed the Convention of the Rights of Child. RF Constitution protects child's rights better than many constitutions in other countries. And Federal Law of 24.07.1998 № 124-FC "On basic guarantees of the rights of child in RF" divides authority of the power layers in the process of implementation of the state policy in the interests of children.

State takes special care of the questions of special support and social service of orphaned children, children deprived of parental care and disabled children. Nevertheless the number of applications to Ombudsman referring to the protection of the rights of children grew significantly in 2005.

Even superficial analysis shows that at least half of the cases of violation of children's rights root in legislation and the other half in indifference of functionaries.

Unborn child is protected by state through welfare payments which are received by the parents of this child. But the number of complaints in which parents say they never got their payments broke all thinkable records. Certain private businesses do not pay taxes so the employees of those businesses shall not get welfare payments.

It seems that every functionary in the country beginning with the President are talking of raising welfare payments. Don't they know that many families in Russia do not get this money? They apply to many bodies – but all in vain.

Often people do not dare to apply for welfare because they may lose their job at a business which does not pay taxes. For example, the K. family from Krasnoufimsk district (appl. № 05-13/2948) writes: "the owner of business "Uspekh" we work at says the state must pay welfare not she," and the state functionaries repeatedly readdress them to the owner of the business.

Unprotectedness of children within family has persistently been the main childhood problem raised by Ombudsman. And sometimes one can't help but cry out: it is the family, not the child that needs salvation, family which seems quite fulfilled but which is actually only one move away from tragedy.

Awfully seldom do parents go to court in order to restore their stopped parenthood rights in respect of their own children. Nevertheless such applications do appear from time to time. For example, convicted mother S. (appl. № 05-15/2035) applied to Ombudsman to help her hinder the looming adoption of her daughter.

Ombudsman found out that on 21.03.2005 a foreign citizen, probable adopter, was allowed to see the child.

In July 2005 convicted S. filed an application to guardianship agency in Kamensk-Uralsky. She requested not to give her daughter to the foster family for adoption because she (S.) was going to restore her parenthood rights. Probable adopter, a citizen of a European country, was informed of this application and the

process of adoption was stopped. On 20.10.2005 S.'s daughter was transferred from "Kamensk Uralsk Specialised Child House" to the Social rehabilitation centre for underage children "Semya" in Asbest prior to the settlement of the question of accommodating the girl in a children's house.

At present S. is preparing documents for the court with the aim of restoring her parenthood rights in respect of her daughter. Childhood Protection agency in Asbest should do their best for S. and her daughter to reunite to make a happy family.

930 orphaned children out of 1896, that is every second child registered in guardianship agencies in Tchkalovsky, Ordzhonikidzevsky and Leninsky districts of Ekaterinburg do not have ascribed dwelling.

This problem is of federal or region level if mothers refused to take their offspring after they were born or from other medical institution (the so-called children-"refusniks").

But when children become homeless because of their parents' fault who somehow lost housing or their dwelling became ramshackle, or they migrated from other regions of RF – in those cases local guardianship bodies must work insistently for the sake of such children and provide them with housing. But the inflow of applications to Ombudsman testify to the opposite. Next year this problem will be under close control on the part of Ombudsman's office and each application will be taken to procurator's office to state the reason for delay.

Insufficient attention is paid to migrants' children who do not have Russian citizenship or any identifying documents.

In December 2004 Social Rehabilitation Centre for underage children "Zarya" in Pyshminsky district received underage children from Kazakhstan who have no identification documents. The father of those children stays in Kazakhstan and the mother committed a crime as soon as she arrived at Kamishlov and involved her elder children in criminal action. The children's mother is now in penitentiary and her elder children are conventionally sentenced. These children cannot get any IDs and so they may not study in compulsory general school, but they are deprived of any social support at all.

Ombudsman thinks it advisable to recommend heads of administrations to plan for the first half of the year 2006 and hold meetings of Councils for prophylaxis of child neglect and juvenile delinquency and protection of the children's rights where to consider the question of migrant children having no Russian citizenship who have problems getting identification cards and who live in inhuman conditions and require social support.

In the year 2005 agencies for social support were transferred from municipal ownership to the regional one, a focused state regional programme "Social support for families with children and protection of children's rights in Sverdlovsk region for the yy. 2006-2008" was adopted as well as Sverdlovsk region Law "On the amount of payment to foster parents and privileges to families in Sverdlovsk region", commissions for the protection of the rights of underage children were set up which are territorial executive organs of the state power in the region. They start

to work on January 1, 2006 and have 2-3 times more employees than there was in municipal bodies.

We can hope that problems of social support for children, of prophylaxis of child neglect and juvenile delinquency will be settled more efficiently. And the state must take care that there are no homeless neglected children staying away from school.

The year 2005 saw a problem which Russian citizens had never faced before. Two citizens of Sverdlovsk region asked Ombudsman for assistance as they were worrying for their underage sons.

On the eve of the new academic year a citizen of Kamensk-Uralsky found out that his former wife who had married an Egyptian subject took her son for one year in Egypt (appl. № 05-13/1982), though K. had not given his consent to this when he had discussed the possibility with his divorced wife. He was sure that she would not be able to take their son abroad but she managed to do it.

According to Federal Law "On the order of leaving RF and entering RF" both parents' permit for an underage child to leave RF is required only when the child goes alone. When a child is accompanied by one parent the consent of the other parent is not required. If one parent does not want his/her child leave the territory of RF he/she must inform of his/her non-agreement beforehand by filing a respective application to the local bodies of internal affairs or to the border control agency.

Now K. can communicate with his son only by phone. He has serious reasons to worry about his son's state of health. On his mother's whim the boy does not attend school. But there is no way to bring the child back. The father is ready to go to Egypt himself and take his son home, but he first of all must know his address.

Ombudsman applied to the RF Foreign Minister and RF ambassador in Egypt was authorised to find out the boy's address and whether his stay in Egypt was legitimate. If RF court decided the case in favour of the boy's mother, Ministry of Foreign Affairs promised to assist in settling the conflict in accordance with Russian-Egyptian Agreement "on mutual legal assistance and juridical relations in civil, commercial and family cases". But to begin with, the boy's address must be found out, however, K. has not yet got any help from diplomats.

Application of another father (K. from Ekaterinburg) worried Ombudsman even worse. Previous summer K. learned by sheer chance that his civil wife went to Brazil through London having taken his little son and the daughter by the first marriage and never returned to Russia. General consul of Great Britain informed K. that no British visa had ever been given to K.'s wife. K.'s wife and children arrived in UK as transit passengers but never left UK territory. That was all information K. received from Foreign Affairs Ministry.

Procurator's check up showed that the mother and children had left RF quite legally. K. was recommended to seek protection of his parenthood rights at the last place of his wife's residence. K. was denied court consideration because he had not filed his dissent beforehand. British consul confirmed that K.'s wife was

staying in UK legally. K.'s application to court turned out fruitless because he was unable to give the children's current address.

K. carried out his own investigation and learned what firm assisted his wife to get to UK. This firm is still operating.

However, his info did not bring his son closer to him. K. still knows nothing of the little boy's fate.

One may think that this one is a merely family problem, even the court finds it difficult to find who's guilty. But both mother and father have equal rights towards child and the decision about long-term stay of child abroad must be taken by both of them.

In both described cases little Russian citizens found themselves outside Russia and their fathers have good reasons to worry of their children's security, but why then don't they find support on the part of the state?

RF signed and ratified Convention on the Rights of Child. Our state has taken obligation to respect the child's right to preservation of his individuality, including citizenship, name, family ties, take measures to fight illegal transfer and non-return of children from abroad as well as take effort to guarantee the principle of joint and equal responsibility of both parents for the upbringing and development of child. Equal right of both parents to the care of children and their upbringing is guaranteed by RF Constitution and Family Code.

Ombudsman forwarded K.'s application to the Sverdlovsk region's Prosecutor and to RF Ombudsman with a request to discuss the situation and finds possible ways of its settlement.

Unfortunately, it is not general practice in Russia to take into account the interests of family and child when a certain decision is taken concerning parents.

Ombudsman was twice asked for co-operation in re-consideration of court decision about turning out of RF. The situations are very similar. Citizen of Iran, S. (appl. № 05-13/2005) and citizen of Lithuania, B. (appl. № 05-13/2955) who have wives and little children violated the regime for foreign citizens in RF. In both cases courts considered their cases in their absence.

We live in a big world. With every passing year our links with the world will only strengthen, so we must get ready that our children and their parents' rights be protected.

Cell for Temporary Detention. In such conditions – a day equals three days.

In accordance with European Convention on protection of human rights and basic freedoms which was adopted by Russia as well every citizen who found himself in detention has a right to respectful treatment and decent conditions. Unfortunately, we must agree that human rights of people in detention are not duly fulfilled.

Today the problem of observing lawful right and interests of man and citizen by legal institution of Sverdlovsk region is still very urgent. And Ombudsman in 2005 paid special attention to how the rights of this category of people were

observed. Most of detainees in CTDs have not been sentenced by court or found guilty. Their crimes are yet to be proved by court sentence. In all international conventions concerning human rights detention of a person in conditions which do not correspond to the requirements of federal legislation is considered torture.

Numerous complaints to Ombudsman from suspects and defendants at inhuman conditions in cells formed ground for a check up/inspection of the isolation CTDs. And always I faced understanding on the part of Readership of Internal Affairs bodies in the questions of observing and rehabilitating violated rights and freedoms in the course of court procedure.

Memorandum of Cooperation in observing and rehabilitating violated human rights and freedoms signed by RF Ombudsman, Home Ministry of RF and similar agreement between Ombudsman of Sverdlovsk region and Chief of Internal Affairs of Sverdlovsk region allowed to achieve a new quality of cooperation.

That employees of internal affairs bodies agree that the problem of observing human rights has a complex character and should be accompanied by the involvement of a wide range of public organisations was especially clearly seen during the check up of how the rights and freedoms of detainees were observed: Ombudsman and the Human Rights Watch representatives were given easy access to isolation cells of temporary detention (CTDs), to inmates and their dossiers, rules of keeping detainees in those cells and to heads of departments of internal affairs to their deputies and employees.

Of 48 isolation CTDs in the region 15 were minutely checked. Overwhelming majority of those cells are located in cellars of departments of internal affairs buildings build in the last century or even earlier which are not suited for the purpose. To say nothing of the building in Verkhoturys built as early as 1871.

The check ups enabled to make inferences of significant drawbacks in the activities of town and district organs of internal affairs in the region aimed at creating conditions for inmates in CTDs that correspond to the requirements spelled in federal legislation at observing rights and lawful interests of inmates and at improving conditions for personnel of CTDs. A number of violations of Federal Law "On custody of suspects and accused of committing crimes" of 15.07.1999 № 103-FL, organs of Internal Affairs Regulations for CTDs of 22.11.2005 № 950, for example, the right to three free meals a day was infringed as well as rights to decent conditions of life and medical sanitary service and daily walk.

The check up revealed that only 16 CTDs in the region provide three meals a day, 4 CTDs – two meals, the rest 28 CTDs provide only one meal a day for inmates.

Individual sleeping place is provided for inmates in 34 CTDs of the region. In all the rest CTDs people sleep on planking. Bedding and bed clothes are not provided in 20 CTDs.

17 CTDs provide inmates with mattresses, blankets and bed-clothes, in all the rest inmates can have either bedding or bedclothes.

CTDs are not equipped with tables, benches, cupboards for keeping foodstuffs, lavatory, faucet, jar for drinking water or radio, as is required by

Federal Law. Only 5 CTDs in the region can boast of having tables and benches in cells. In 27 CTDs there is practically nothing. It is very difficult to prepare for court listening, or to write a letter home or simply to eat in such conditions.

Only 10 CTDs in the region equipped cells with radios, in only 23 CTDs there is wiring: 2 CTDs do not supply periodicals, in 9 CTDs there are no table games for inmates.

There are no sanitary inspection units in 40 CTDs of the region, no disinfection chambers in 44 CTDs, in 25 CTDs there are no separate equipped medical units. These figures testify to the lack of necessary medical-sanitary service for inmates which ought to prevent spread of infections.

Analysis of technical equipment of CTDs actual visits to CTDs revealed that in 30 CTDs inmates cannot have walks because there are no walking yards or they are poorly equipped; in Kushva and Krasnoufimsk inmates of CTDs are not taken to walk because there are not enough guards.

Overpopulation of cells and resulting infringement of the right of inmates to decent sanitary norms of space as large as 4 sq.m. per 1 person is revealed in Kamensk-Uralsky, Pervouralsk, Asbest, Irbit, Kirovgrad, Krasnoufimsk, Nevyansk and Rezh CTDs. The situation of overpopulation is aggravated by taking up a number of cells for people arrested on administrative grounds. All in all, in the region 30 cells are taken by administrative criminals.

Complicated living conditions in CTDs in Sverdlovsk region infringe the rights of both inmates and their guards. Employees of CTDs do not have separate rooms for chiefs of CTDs, no rest rooms at their disposal. They can't warm up food or take it in decent conditions.

In order to bring the conditions in CTDs into line with the requirements of Federal Law sufficient federal financing is first of all necessary; secondly, a focused federal program for reconstruction and construction of CTDs; thirdly, provision of additional financing from municipal budgets.

By Joint Efforts

In the process of assisting people to restore infringed rights Ombudsman efficiently cooperates with all law enforcement bodies of the Sverdlovsk region and firstly with procurator's agencies. It must be noted that region's procurator and town and district procurators never left Ombudsman's application to check up citizen's claims of violated rights without due attention and quickly considered those application and took measures to restore violated rights.

Citizen I. (Appl. №07-13/1703) complained to Ombudsman that employees of Ordzhonikidzevsky district department of internal affairs of Ekaterinburg had unlawfully refused to open a criminal case about I.'s daughter disappearance. After Ombudsman appealed to procurator of Ordzhonikidzevsky district the criminal case was begun.

Applicant M. (Appl. № 05-13/420) claimed that she had been denied to bring a criminal case on the fact of her son having been heat up. Ombudsman

addressed to Krasnouralsk procurator to check up and as a result of this interference the criminal case was opened on p.1 art. 112 of Criminal code of RF.

Ombudsman personally received an applicant from Katchkanar (Appl. №05-13/1426) who left a request bring a criminal case against K., employee of Katchkanar department of internal affaires, of passport registration, who on the pretext of sold the applicant's apartment took the money of the applicant (240 thousand roubles.) Ombudsman insisted procurator of Katchkanar brought a criminal case against K. on p.1 art.159 Criminal Code of RF (fraud).

To retrieve money for inadequate fulfillments of the order to make a tombstone from entrepreneur D. applicant S. filled a complaint with Ombudsman (Appl. №05-13/1345). In the course of execution of court decision bailiff distrained and arrested covenanter's immovable property – a log house. However the covenanter broke the house.

On Ombudsman's application Kushva's procurator brought a criminal case against D. (arbitrariness).

Refusal of functionaries from Zheleznodorozhny district department of internal affaires of Ekaterinburg to bring a criminal case for persistent non-pay of alimony in general for his underage daughter caused citizen A. to appeal to Ombudsman. (Appl. № 05-13/1300).

The underaged need special protection on the part of state so the procurator of Zheleznodorozhny district was able to tale a quick and solely correct decision. He brought a criminal case on p.1 art.157 CC of RF against M.'s father (persistent non-pay of alimony).

Application of F. (Appl. №05-13/1711) may serve as an example of expedient reaction of procurator of Zheleznodorozhny district to violation of rights of an underage child.

When F.'s underaged son was staying in detention in the center for temporary detention of juvenile delinquents he was beaten up by a senior teacher. The mother demanded immediate consideration of the case. It was necessary to personally talk to the youths in the center and investigate the circumstances of the incident.

To this end Ombudsman addressed procurator of Zheleznodorozhny district to carry out a joint check-up of the facts mentioned in the application of F. In the course of this joint inspection the fact of beating up of underaged F. was confirmed and a criminal case was brought against the teacher on p.3 art.256 CC of RF.

Procurator's office of Sverdlovsk region held a check-up of S.'s application (Appl. №05-13/1324) at the request of Ombudsman. The facts of red-tape during the investigation of road incident mentioned by S. were confirmed. As a result a number of functionaries from procurator's office of Polevskoy were brought to disciplinary responsibility.

Another case of red-tape in criminal investigation was described in complaint of L. (Appl. №07-13/1661) and the facts were confirmed in a check-up. All the functionaries responsible for this red-tape were called to disciplinary responsibility as well.

According to Russian legislation a citizen may turn to both procurators' office and court for protection of his/her infringed rights. I think pre-court settlement of the question of restoring violated rights is most effective. And I hope for further cooperation between Ombudsman and procurators' offices of the Sverdlovsk region in the cause of protecting human rights and freedoms.

Though I must mention that the year 2005 unstable as far as cadre policy in the

procurators' office of the region is concerned. 25 procurators were moved, including A.V.Shaikov who served less than one year. I am sure no haste is necessary in this process because professional experience can be accumulated only with years. And this experience is much more valuable than mere knowledge because it is gained in life universities. I hope for close cooperation with O.P.Kukushkin, the new region's procurator.

Right to Defense in court

Still a considerable number of complaints from citizens involve courts of Sverdlovsk region. Most of complaints are on court decisions in both criminal and civil cases. However Ombudsman may not doubt lawfulness and validity of court decisions in light of changes in legislative procedure. Lawmaker has clearly defined subjects of this right. That is why Ombudsman limited her actions by explaining and clarifying how and where to apply to in order to implement this right.

Of course it is not enough simply to explain the order of appealing a court decision. The appeal itself must be grounded and correctly compiled in accordance with law requirements and this calls for special knowledge. Most applicants do not have enough means to hire an attorney and state doesn't provide one. This problem was more than once described in previous Reports but it is still urgent.

Ombudsman organized assistance to those seeking juridical support by publishing guides of how to compile appeals in civil/criminal cases with sample appeals to RF Constitutional Court and European Human Rights Court.

Other complaints from citizens touched upon legal procedure, particularly when applicants were denied right to court defense including appeal to court decision.

In the course of check-ups Ombudsman revealed violations of the right to defense in court.

All these violations can be classified into three categories. Firstly, there are dozens of complaints from inmates of corrective institutions at refusals to bring sentence in accordance with current legislation.

The problem is that when an inmate appeals to bring sentence in accordance with current legislation more often than not court officials ask for copies of previous sentences and do not consider applications but demand state tax to be paid for the issue of such copy. Inmates often have no money to pay this tax.

Thus Ombudsman was addressed by convicted S. who complained at the refusal of court to give him a copy of sentence given by one of the courts in 1998

without state tax. (Appl. №05-13/872). When S. applied to court to bring his sentence in accordance with current legislation he was told to pay state tax for copies of previous sentences. S. had no family, job or means. A similar complaint came from another convict (Appl. №05-13/103).

We witness a controversial situation: on the one hand the requirements of courts are lawful and grounded in i.10 part 1 art.333.19 of RF Tax Code. On the other hand art. 154 of RF Constitution and art. 19 of RF CC say that every convicted has a right to alleviate sentence in accordance with current or new legislation. And implementation of this right may not depend on the depth of convict's pocket.

The way out is either to change Tax Code or make courts themselves ask for necessary documents.

Leadership of Sverdlovsk regional court agreed that the problem does exist. In his letter I.K.Ovtcharuk, Chief of Sverdlovsk regional courts of general jurisdiction may in such cases either diminish the size of tax or delay its payment. It may not exempt according to RF Tax Code. At the same time the Sverdlovsk regional court is ready to consider every appeal separately and it is a good practice which, however, doesn't settle the problem as a whole.

For example, convicted B. (Appl. №07-13/1564) filed an application in which he says that Novolyalinsky town court returned his application of bringing his sentence in accordance with law without consideration because B. had no copy of sentence of 23.01. 1998 given by Krasnoyarsk court. His numerous requests to give him the copy were not answered.

Secondly in the course of work with applications in 2005 another problem was revealed connected with the implementation of the right to make copies of materials with the use of machines at the cost of the inmate.

Right to defense in court implies that defendant may appeal to superior court, but he must prepare respective documents including copies of various documents. (i.3 p.2 art. 404 RF CC).

Law allows the accused or convicted and his attorneys to make copies of criminal case materials at his own expense. (i.13 p.4 art. 47 RF CC).

I think that it is wrong to literally understand the meaning of this item: that all copies may be made only in the building of court. I believe it must involve the possibility to get copies by mail and this is envisaged in i.10 p.1 art. 333.19 of RF Tax Code.

Certainly there are cases of unsubstantiated appeals when applicants demand copies of many volumes of materials, but in most cases such requests are quite well grounded.

The third group includes complaints about handing out copies of documents improperly put in order. Supervision court sets strict requirements to copies of appellated court decisions: they must be readable, signed by judge and court secretary, marked with court stamp. If there are several sheets in the copy they must be numbered, sewn together and stamped.

Everything seems clear but often it is not the applicant but court employees who put papers in order improperly.

One more problem I would like to draw readers' attention to in this Report is unreasonable length of duration of court procedures. Certainly some positive changes have taken place: two or three years ago much more complaints at red-tape came to Ombudsman but lately this problem has lost some of its urgency due to introduction of justice of the peace institute.

Practice of European Human Rights Court says that consideration of case must take reasonable time beginning from the moment of bringing case to giving conclusive decision. Numerous delays of consideration of case in court, cancellations of court decisions may not be substantial reasons for long court procedures. That is why very soon court will have to fulfill procedure legislation and European standards.

As to non-execution of court decisions it is also a grave violation of the right to defense in court according to European Human Rights Court Practice.

European HR Court practice implies that the right to defense in court may be implemented in full only when the decision is made in reasonable time but also if it is executed in reasonable time. Unfortunately nonexecution of court decisions is still big problem in Sverdlovsk Region and many complaints to Ombudsman testify to this.

People in jail

Nelson Haudela said: 'Actually no one knows a nation until he visits its prison. We must judge a nation by how it treats the people in the bottom, not on top'.

People in prison do not stop being people despite the seriousness of crime they are accused of. When Court decides to take a person's freedom it does not take away the right to stay a human being.

Bad treatment of inmates cannot be justified – it is always unlawful. At the same time cruel treatment not only mars institution's employees' personal reputation, it also mars the reputation of a particular corrective colony.

Closed regime and isolated character of institutions of CDPE allows for unpunished violence in the part of colony personnel.

In my report for the year 2003 I pointed to facts of using torture and deliberately cruel, inhumane and humiliating treatment of inmates shall be stopped by bringing criminal cases to federal courts. I also promised to make all such incidents public. Now I fulfill my promise.

In the course of investigation held by Ombudsman at the request of citizen Z. (Appl.№01-13/2932 of 29.10.2002) it was revealed that security guards B., M., and T. of corrective institution USH – 349/2 cruelly beat up inmate L., Z.'s husband, who died after that in corrective colony 2 where he had been transferred in the eve of his death.

Ombudsman was obliged to ask Procurator of Sverdlovsk region for assistance and support in the investigation of the fact of violent death of inmate. But only after Yu.M.Zolotov, General Procurator of the Ural Federal District, interfered the criminal case against security guards was brought to court. During the years 2004 and 2005 the court repeatedly considered this case and every time L.'s widow courageously represented her late husband's interest in court. The court

sentence has now come into force and this incident served a good lesson for all employees of the corrective system. Plaintiff Z. is not satisfied with the court's decision and appealed to European Human Rights Court.

Among the problems which did not find their solution in 2005 the most important is legal-psychiatric expertise which depends on investigatory bodies and judiciary system.

People can't wait for this expertise for 6-10 months, because of poor coordination between internal affairs bodies, CDPE (Chief Directorate of Punishment Executions) and health system.

When last February I visited institution 12-66/5 I was appealed by arrested women A., G., G. and K. who complained that their legal-psychiatric expertise was delayed for a long time. G.M. Shutova, federal head of corrective institution iz-66/5, filed an application to take the initiates to Yekaterinburg for legal-psychiatric expertise but to no avail, she then addressed I.K. Ovtcharuk, Chief of Sverdlovsk regional court, (ref. 24.08.04 and 10.09.04) who assured Ombudsman that all measures were being taken to speed up the situation. Finally all the four inmates underwent legal-psychiatric expertise. in all the other cases I.K. Ovtharuk was 51 as instrumental.

I was addressed by Ts. (Appl. № 05/13.1872) lawful representative of her arrested sick daughter Ts. to assist in speeding up legal psychiatric expertise. Arrested Ts. was invalid childhood, under permanent supervision of psychiatrist and required permanent therapy with hormones and needed treatment in hospital twice a year. in the course of 4 months Ts. spent in corrective institution i2-66/5 she wasn't given legal-psychiatric expertise.

After I addressed I.K.O Ovtcharuk, Chief of Sverdlovsk regional court, (ref.05-13/1872 of 30.11.05) closer date was fixed for consideration of Z's application by court college for criminal cases. Chief of regional court agreed that the problem of legal-psychiatric expertise of inmates remains a serious issue (mostly financial problem) and ombudsman must take an active part in its settlement). I do agree with both and will not leave the problem unsettled.

I think the situation when getting quick medical help a sick inmate is forced to involve in long correspondence with the leadership of CPPE. in such complicated individual cases I'm shocked by the neglectedness of sick people, prisons, etc, and sheer luck of medical care. this is especially relevant for oncological patients.

Wife of convicted Z. (Appl.№ 05-13/330) appealed to me to help quickly transfer her husband to medical-corrective institution LIU-51 because his health deteriorated, during an X-ray execution Z. was diagnose with tumor in the lungs.

I helped to transfer Z. to LIU-51, but he needed operation on the lungs for cancer, so he was completely released on 21/04/05 and put to Sverdlovsk regional oncological clinic. Chief doctor V.B. Shamansky of Sverdlovsk regional oncological clinic was very instrumental in this case, as in a few other similar cases (Appl.№05-13/127 of 14.04.04 – convicted oncological patient T. from institution USU 349/52), application of U.S. mother (Appl. .№ 05-13/1870), and others.

The System of Punishment Execution can deservedly be praised for diagnosing and treating TB and AIDS. But it still necessary to set up a reliable system of diagnostics and expertise in psychiatry and oncology. Ombudsman's mail testifies that this problem still remains unsettled.

The conditions of life in colonies for juvenile delinquents in the Sverdlovsk region are fairly good and continue to improve. And this tendency is very cheering for Ombudsman who systematically patronizes these colonies

General and vocational education is very important for social profilactics of juvenile crimes. On the whole with every passing year the situation improves. In 2005 one graduate of Krasnoturinsk colony №1 finished school with gold medal.

Governor Rossel personally handed in the medal to the brilliant boy. Governor Rossel also visited juvenile colony №2 after which he paid special attention to the adjustment of released young people. A special meeting of the Governor's Council for Public Security was devoted to this issue.

In reception I was addressed by parents of two inmates of Kirovograd colony № 2 for juvenile criminals. They wanted that their sons got certificates of secondary education without the Stamp of colony. Usually such certificates are stamped by the stamp showing the departmental affiliation of school and this may further hamper social adaptation of former inmates and serve as a serious obstacle for getting further education.

V.U.Yalunin, first deputy of RF Justice Minister Colony from stamp replied that Ministry of Justice of RF is worried by the problem as well. Now numerous discussions by respective organs are under way to settle the problem and exclude any mention of the colony from the stamps.

Ombudsman applied to Ministry of Justice of RF and CDPE of Russia regarding questions of protecting rights to dwelling of the employees of forest settlements where numerous corrective institutions are located at present or used to be located in the past.

Yu.I.Kalinin, Chief of Federal Service of Punishment Execution, informed (ref.№05-11/244 of 16.11.05) that RF Government decreed (№ 1291-r of 07.10.04) a list of settlements with colonies from where people are transferred without the framework of a subprogram. 21 settlement located in Sverdlovsk region were included in the list: they are settlements Lozvinsky, Novosyolovo, Yakshino, Tomsky, Tormoli, northern Tchernushka and others.

Taking into account complicated living conditions in the abovementioned settlements yearly FSPE of RF allocates 50% of housing certificates in the system to the employees of those corrective institutions. I think this variant is quite just.

In Ombudsman's report for 2004 special attention was given to the problem of giving passports to inmates. Because of lack of agreement between various departments and mechanisms of paying expenses on giving new passports to inmates people left institutions only a certificate of discharge. In 2005 RF Government started to take measures in order to settle this problem. In August 2005 A.P.Vorobyov, Head of Sverdlovsk regional Government was informed that RF Minister of Finance took a decision to allocate 10 mln rubles to corrective system in the year 2006.

Certainly thanks to such measures fewer people will leave colonies without passports. Unfortunately the problem of supplying the discharged inmates with papers can not be settled solely by better financing. There are many inmates whose citizenship can not be identified easily, either because the employees of colonies found it difficult to collect all necessary information of such inmates or because inmates themselves do not want to share the information. So the effectiveness of this work depends greatly on the qualification of the employees of passport – visa agencies and special departments in corrective institutions.

Ombudsman received application of B., inmate of corrective institution USN – 349/46 (Appl. № 05-13/1222). B. was born in Russia, but since 1990 till 1993 he served time in Ukraine and this fact served as a grand for refusal to change his passport.

The analysis of such cases revealed that employees of local passport-visa agencies and of special departments in corrective institutions do not know legislation well enough and do not have clear instructions. Ombudsman does not blame them but agrees that federal laws ‘On legal status of foreign citizen/subjects’ and ‘On citizenship of RF’ have made many situations unsolvable.

Ombudsman repeatedly receives applications from inmates who are worried about their future because their conviction for grave crimes not only for many years deprives them of a possibility to get Russian citizenship but actually prevents their reunion with family. Some of them have Russian roots, moved to RF and settled there a few years prior to arrest. It is a similar situation that describes inmate Ya. (Appl. № 07-12041) from corrective institution IK-47, inmate K. who moved to his brother from Kazakhstan when he was a boy (Appl. № 05-13/357), inmate S. from corrective institution Ushch-349/54, who in 1994 left Kazakhstan for Russia, served in the army and after that work in Road Police for a long time (Appl. № 05-13/1963).

Ombudsman applied to the Commission for citizenship with RF President for information of how the future life of those people was to be settled. I was informed that foreign citizens and persons without citizenship who have conviction for premeditated crime on the territory of RF or outside if registered in the territory of RF for more than one year till May 22, 2002 may file an application to be given a residence permit. People without citizenship can be registered at the place of temporary residence. The decision of registration is taken by local organs in each individual case. Conviction for a grave crime may serve as ground for refusal to be given temporary residence permit and residence permit perse.

The term of temporary residence may be prolonged only for persons without citizenship individually.

Unfortunately applications to Ombudsman prove that most people who received certificates of discharge do not want to leave Russia because no links connect them with their former country, or because they have no papers which allow to cross border. In Sverdlovsk region where there are very many corrective institutions this problem is especially urgent.

People who seek assistance with Ombudsman use to tell that employers of passport-visa service referred to some instruction for in-service use only according

to which they may not supply with documents people who have not been registered. One can only lodge a complaint against refusal with court or prosecutor's office but it is senseless to advise this to people without definite place of living. Ombudsman is grateful to passport-visa employees for the effective measures they took to settle each individual problem. For example Tch.'s complaint (appl.№05-13/502) was considered Kirovsky district department of internal affairs of Ekaterinburg accepted Tch.'s application about the loss of passport, and there is hope that sooner or later this problem will extinguish.

Ombudsman believes it is high time to take measures to give an opportunity to every discharged inmate to get passport. Foreign citizens and persons without citizenship must be aware of the terms of their stay in RF. They must have an opportunity to return to the country of their citizenship.

Ombudsman recommends Head of new regional department of FMS and Head of CDPE in Sverdlovsk region to make recommendations for defining Russian citizenship for inmates. Ombudsman also appeals to CDPE to make up lists of foreign citizenship and persons without citizenship serving in corrective institutions who can not get temporary residence permit.

Soldier served...

Those Motherland defenders also need help Ombudsman wrote in her previous Report. In 2005 I also received applications from parents of soldiers who serve in the Army and those in the recover with complaints about their rights having been violated while they were in the Army.

60

Citizen T. (Appl. №05-13/2040) requested Ombudsman to assist her son receive additional monetary remuneration for taking part in counterterrorist operations on the territory of Northern Caucasus of RF. She said her son had been called up for military service in May 2003 and till 29.04.04 served in the Republic of Northern Osetia – Alania. Since 24.04.04 till his transfer to the reserve he served in the military unit located in village Vedenov in Tchetchen Republic. Headquarters of the unit promised to send T.'s son due additional monetary remuneration but did not fulfill the promise. T. wrote to the Headquarters of the unit but did not get reply.

Similar complaints came to Ombudsman from former military servicemen S. (Appl.№05-13/2105), T. (Appl.№05-13/2336) and S. (Appl.№05-13/2348).

In order to facilitate Ombudsman addressed Military Prosecutor of North Caucasian military district to carry out a check up of the reasons of non-pay of additional monetary remuneration.

Ombudsman continues to receive applications from soldiers' parents about incidents of violations of regulations in military units.

Thus B., the mother of the soldier, (Appl.№05-13/896) complained of infringed supplying of serviceman with due allowances and of improper medical treatment. In order to investigate the facts in B.'s complaint Ombudsman addressed Military Prosecution of Moscow military district. He informed that a

check up of the facts mentioned in the mother's letter was held with the participation of specialists who revealed certain violations of Federal legislation requirements.

As a result 7 functionaries of the unit were called to disciplinary responsibility. Soldier B. was transferred for further service to a military unit located in Ekaterinburg (order № 4/4-2527 of 18.04.05 issued by Commander of Volga military district).

Another applicant, the father of soldier T., (Appl. № 05-13/2223) complained of infringed constitutional rights of his son by his officer, who had cruelly treated T. and thus forced him desert the military unit on June, 10. Soldier T. was found in Tyumen region only late in October. T. wanted an investigation to be carried out by military prosecutor of YElan garrison and Ombudsman was instrumental in organizing this inspection. As a result a criminal case was brought against the platoon commander on Art.286 p3i'a' of RFCC.

In the year 2005 RF President and Government took measures within the framework of reforming RF Military Forces to improve social support of servicemen, to supply them with housing and other allowances. Much is done for the introduction of contract service. But joints of all it is necessary to solve the most important tasks: to raise the prestige of military service, of the Army and to strengthen the status of serviceman be he officer or solder.

My visit to tank regiment located in Verknyaya Pyshma showed that contract service dramatically changed a formerly problem unit for the letter.

Modification of the system of calling up, when the commission is headed by Governor, also improved the procedure, so there were no complaints thereof in autumn 2005.

Ordeals of citizenship

Though already three years passed since federal laws "On citizenship in RF" and "On legal status of foreign citizens in RF" came into force still many questions remain unanswered.

Long-term residents of RF experience difficulties with brining in order their documents according to recent legal requirements. Ombudsman repeatedly hears complains from people who do not get answers from officials in CIS states and their diplomatic representatives in RF to this effect.

After Ombudsman's interference Tch., resident of village Druzhinino, (Appl. 05-13/13) was able to receive duplicate of certificate of leave from Kazakhstan; an application is forwarded to Migration Service of Kazakhstan in the interests of P., resident of Serovsky district (Appl. №05-13/2610).

At personal request of Ombudsman Chief of Information centre of Rep. of Azerbaidzhan mailed a document certifying that a young woman with two small children had had no convictions (Appl. №05-13/703).

Check-up of a number of complains at lengthy procedure of considering applications about getting temporary residence permit and citizenship revealed that

more often than not it was caused by poor efficiency of local agencies of passport-visa service. (Appl. №05-13/1078, 05-13/2590).

Errors and negligence of pass-visa service employments in the process of drawing up document turn out problem for common people. S., resident village Vnov-Yurmitskoye in Talitsky district, (Appl. 05-13/1046) complained that her RF passport was withdrawn as given by mistake. The inspection revealed that a former employee of passport-visa service of Talitsky district groundlessly gave more than 30 RF passports. In 2003 these employee was convicted and dismissed from the organs of international affairs.

As to the people who suddenly found that they were not Russian subjects, they had to collect all the necessary papers anew in order to get citizenship. And this involves spending much efforts time and money. Passport-visa department took measures to facilitate consideration applications from victims.

A similar complained came from Kh., a resident of Ekaterinburg (Appl. №05-13/1082). As soon as complaints of this kind came earlier as well Ombudsman asked Presidential commission for Citizenship for clarification of opportunities to solve such predicaments. Such opportunities were clarified by the Commission and the information was given to applicant Kh.

Many complaints came to Ombudsman from parents and guardians who had not bothered to register their children at the place of residence.

In February 1992 resident of Ekaterinburg S. (Appl. №05-13/1677) brought her two small grandchildren from Ukraine, where their mother had not taken proper care of them.

Applicant K. (Appl. №05-13/2442) did not register her niece until six years after their move to RF from Ukraine. Applicant F. from Mikhailovsk (Appl. №05-13/2381) did not at all register her son who was born in Ukraine. All these children are now old enough to get passport but they do not have Russian citizenship. In order to put their stay in Russia in order they have to get passports in the consulate of the state of their citizenship.

Applicant K. (Appl. №05-13/2338) couldn't help crying when she was telling about her daughter's problems after the latter had lost her passport. K.'s family temporarily stayed in Ukraine where the father of the family served in the army. The children were born in Ukraine. When Ukraine separated from Russia the K.s decided to go back to Russia because they did not want to take Ukrainian citizenship. On their return the father and the mother K. retrieved their Russian citizenship by the right of birth. The daughter received her passport already in Russia but after she had lost it she was unable to prove her Russian citizenship for a long time. Ombudsman received an answer from Central Passport-Visa Service that according to decision of Constitutional Court of 12.04.2005 K.'s daughter can be recognized as Russian citizen by the right of birth.

Ombudsman referred to Commission of Human Rights a motion to set up regional commissions for questions of citizenship which had been proposed by public organizations of the region. Ombudsman's application was considered by President Administration but unfortunately it did not find understanding or support there.

As practice showed decisions of returning documents for revision because of changes in legislation which took place after the documents had been taken for consideration are taken much too often. For years on end could not people solve those problems, wasted time and money for endless revisions. Timely RF President's decision of granting Russian citizenship to the young people who had served in Russian army was actually cancelled by the Commission of Citizenship's decision, according to which only professional servicemen retained the right to get Russian citizenship in simplified order through military commissariats. The young people were given back their papers for revision; after that they had to apply for passports only to passport-visa agencies in the place of their residence.

Ombudsman appealed to V.P.Lukin, RF Ombudsman, to inform RF President of this situation. In February V.P.Lukin referred to RF President the proposal to pass a federal law envisaging additional measures for settling legal status of foreign citizens and persons without citizenship who had been permanently on the territory of RF before November 1, 2002. If such a law were passed many people who actually live in RF would have got a real opportunity to legalize themselves. It is a pity but the past year saw no changes in legislation.

Ombudsman's appeal was supported by E.V.Roizman, Deputy of State Duma. He held consultations in relevant Committees: Committee for Civil and Procedure Legislation, Committee for CIS affairs and links with compatriots. E.V.Roizman also informed Ombudsman that a motion on additions and amendments to Federal Law №62 FL "On Citizenship in FR" is being prepared by State Duma deputies where norms of recognizing RF citizen by the fact and time of staying on RF territory are envisaged. The deputy assured Ombudsman that he should support people who for different reasons cannot get temporary residence permit.

However people illegally residing in their own country are numerous. As a rule they have Russian roots. Unified police towards them does not exist and representatives of law enforcement bodies prefer not to see the problem. But the situation cannot improve by itself. There are children and pensioners, people having convictions and carriers of hazardous diseases. They live next to us in Russia and the task is to find them, help them legalize themselves, give them an opportunity to work and earn their living.

Human Rights defenders have long been talking of the necessity of amnesty for migrants who do already live in Russia. But amnesty has been held only for labour migrants. Like it or not but leadership of the region itself will have to take care of illegal residents/migrants.

Bitter Fate of Migrant

Applications to Ombudsman from forced migrants constitute only a very small portion in the inflow of applications. But one may not stay away of this problem. The more so because with every passing year their number grows.

Unfortunately obligations of RF before forced migrants, many rights guaranteed to them by Federal Law "On forced migrants" are left on paper and are

not actually fulfilled. People experience bitter disillusionment when they realize that their hope for help was groundless and now they must rely only on themselves.

B., migrant from Kazakhstan (Appl. №05-13/190) described in detail what difficulties she was forced to experience while registering, putting the child to kindergarten in search of dwelling and job. B. knows the federal Law "On forced migrants" very well and wonders why she got no assistance in the search of job, why her family wasn't given temporary dwelling.

In 2001 B. applied to P.M.Latishev, RF President's Plenipotentiary in the Ural Federal District, and some work was done by Plenipotentiary's office for the sake of B. She was informed that temporary dwelling was given mostly to migrants from the so-called "hot spots", like Chechnya.

Nothing changed for B. in the year which passed since she first appealed to Plenipotentiary. B. is still waiting.

Similar predicaments experienced other forced migrants: R. from Abkhazia (Appl. №05-13/1806), B. from Uzbekistan (Appl. №05-13/2462), pensioner K. (Appl. №05-13/2462).

People sincerely wonder why Russia wouldn't notice its citizens who had found themselves in predicament not through their own fault, why the state always finds excuses not to fulfill its duty towards its subjects.

K.'s family of five from Sysert was put on the waiting list for accommodation as early as 1997. Every year they collected and submitted documents for prolonging their status. Suddenly in April 2005 the family was informed that they were removed from the register because one of the family had 2/8 of a share of dwelling in his ownership.

The Commission which took this decision referred to Regulations of Accommodation for Forced Migrants in RF confirmed by RF Government's Decision of November 8, 2000 №845 which says that no accommodation is provided to migrant if he/she "permanently lives in a dwelling belonging to one member of his family or to all of them on the right of ownership". Federal Migration Service supports such actions of its representative.

When Ombudsman requested to consider K.'s situation the functionary of Federal Migration Service discovered only one violation: removal from register four years after passing new regulations and ordered to carry out an internal investigation of this fact.

Ombudsman believes that it was all wrong because the K. family had been registered three years prior to the adoption of Regulations and the waiting list they are in is valid.

The very Regulations do not imply a possibility of striking off forced migrants in want of housing or better living conditions.

Actually Federal Migration Service employees contradict Art. 55 of RF Constitution which prohibits passing acts which infringe or cancel human rights and freedoms of citizen. Now K. is going to defend his rights in RF Federal Prosecutor's office.

Applications from forced migrants are very much alike: they do not receive any support on arrival in their historical motherland from CIS states.

Ombudsman believes that a host of measures ought to be taken in this connection for better adaptation of migrants. Their unsolved problems may serve as a breeding ground of tension in society which in the long run may give rise to ethnic conflicts.

Certainly most obligations must be financed from federal budget, though Ombudsman thinks local budgets may also be used to this end. Especially when one recollects how badly this country needs workforce.

Ombudsman thinks it is helpful to set up a separate bank of vacancies for migrants from CIS in Sverdlovsk region: we need teachers, doctors, agricultural workers etc.

Municipal councils cannot provide accommodation to all migrants but regional migration center might facilitate in this work.

Foreign Citizens on the Ural Soil

It is common belief today that rules of stay and work for foreign citizens are overly strict in RF. And applications to Ombudsman prove this. In the past year some cases were revealed of unlawful requirements to foreign citizens on the part of officials.

In May 2005 V., a resident of Ekaterinburg (Appl. №05-13/1039) complained of the actions of the head of passport-visa service. V. applied to the service with statement to register his friends who came from Azerbaidzhan by train.

The guest arrived in Ekaterinburg 3 days after they had received migration cards and came for registration to passport-visa service in Ekaterinburg on the second working day. But head of passport-visa service took a decision to bring these people to administrative responsibility for breach of regime of stay on the account of they applied 6 days after the reception of migration cards. All the arguments that they were on train 3 days were not taken into consideration. Though passport-visa functionaries did not fine the guests from Azerbaidzhan V. complained to the Governor and Sverdlovsk region prosecutor.

Ombudsman was amazed to learn that all inspectors found the actions of passport-visa service lawful and in accordance with registration rules. Ombudsman applied for clarification to Head of passport-visa service and learned that while registering it is recommended to add the time on route.

But as soon as the rights of all foreign citizens must be equal despite the means of transport they took to get to RF all materials of V.'s application were sent to Head of Federal Migration Service, RF Ombudsman and RF State Duma deputies from Sverdlovsk region in order to provide unified approach and criteria in law enforcement practice.

Foreign citizens complained of the requirement to provide a translation into Russian of national passports certified by notary (Appl. №05-13/1745), of refusal to prolong registration after 3 months elapsed (Appl. №05-13/1931), complained

that they had to sign empty protocol of committed breach of administrative rules (Appl. №05-13/2008).

Unfortunately most foreign citizens have to work without allowance. And it is very profitable for employers to use slave labour. Functionaries of PV service agree that it is almost impossible to prove that employer uses illegal foreign labour. Employers can easily escape responsibility. At the same time illegal labourers are threatened by inevitable punishment. However Head of Migration Department selflessly guards the interests of employers. Despite repeated appeals Ombudsman failed to get any information of businesses and organizations where foreign citizens worked illegally. Referring to presumption of innocence Head of Migration Department did not give away a single business.

Unfortunately both common people and functionaries of law-enforcement organizations use to think that illegal labour migrants should not have any rights, so in many cases the complaints of migrants stay unconsidered.

Ombudsman was addressed by deputy director of joint-stock company «Vakhsh» which signed a contract with agricultural enterprise «Agrozavod Novoipatyevsky», a supplied 11 labourers from Uzbekistan (Appl. N05-130/2444). The agricultural factory will not provide front of work and the contract was cancelled. Director of «Avtozavod» demanded for part of losses to be paid and refused to give back passports of Uzbekistan citizens which he had earlier collected for registration. Applicant Kh. appealed to Sysert Office and it was found out that the director simply lost the passports and there was no corpus delicti. Soon the citizens of Uzbekistan were arrested and brought to police station for drawing up a protocol. citizens of Uzbekistan have actually become hostages in economic argument. Ombudsman, when she received their complaint, sent the materials to P.P.Kukushkin, Sv.Region prosecutor. And immediately the lost passports were found and the materials of the case were forwarded to head of Sysert Department of internal affairs for further investigation.

The rights of foreign citizens are violated not only by functionaries of law enforcement agencies.

representative of Tadjik branch of radio «Svoboda» ("Freedom") asked Ombudsman to assist a married couple from Tadjikistan register their baby (appl. N05-13/1989).

The baby's mother couldn't get registered, whereas the father was registered and had allowance for work. first a rank-and-file employee and then chief of Registration Office of Leninsky District in E-burg refused to register the baby motivating the refusal by the fact that the baby's mother was staying in RF illegally and had no migration card. The functionaries also rebuked the mother that her name was unreadable on the Certificate of the Baby's birth and demanded that she got a new certificate.

After Ombudsman's interference Oktyabrsky Registry Office quickly registered the baby in the place of birth. And the certificate turned out to be quite good. Chief of the District Registry Office failed to give any explanation to the refusal. Chief of the Ekaterinburg Registry Office agreed that the dialogue between

representatives of various structures of state power has become an urgent necessity on account of changes in legislation.

Ombudsman's experience of work with foreign citizens' applications resulted in an instruction for CIS immigrants to RF who temporarily stay in Sverdlovsk region. The Instruction (Memorandum) clarifies their rights, duties and the order of appealing functionaries' and court decisions. The text of this instruction has been sent to diplomatic representatives of Tadzhikistan for translating into Tadzhik and for publishing. Prior to the arrival of new laborer migrants Ombudsman is planning to elaborate memorandum specially adapted to citizens from Kirgisia, Uzbekistan, Kazakhstan.

Such instructions are very important because they clarify to foreign citizens their rights and duties, inform them about public organizations which can render help in case of emergency.

In May 2005 Ombudsman visited an institution where foreign citizens wait for court decision in turning out. This waiting can take long months as the Embassies of CIS countries do not haste to give documents to their citizens. Besides the institutions where those people are kept must pay 30 US dollars as consul's tax and delegate an employee to Moscow. As a result having faced such problems a few times representatives of law-enforcement agencies prefer not to notice foreigners without papers.

Unfortunately leaders of regions have actually lost every opportunity to influence decision-taking process in the sphere of immigration. But it is in regions where the negative aftermath of the situation is to be dealt with. The use of new rules of crossing border became one of such flaws.

In March 2005 Protocol was signed of Mutual visaless visits. Government of Belarus, Kyrgyz Republic, Republic of Kazakhstan and RF agreed to shorten the list of documents enabling the cross of border. The aftermath was quite predictable. Thousands of foreign citizens were stopped on Russian border and had to solve a lot of problems before they got to their destination.

Much is now done in the sphere of migration in the Sverdlovsk region. Regional Migration Centre began to operate. Committee for the use of foreign labour regularly holds its meetings.

Ombudsman believes epe today the most topical is settlement of the four urgent tasks:

- Clarification of the rights and duties of foreign citizens, for which purpose leaflets must be widely distributed in markets, in the regional Migration Centre, branches of Federal Migration Service and Federal Employment Service. Before the start of a new labour season information about registration rules must be placed in dwellings and houses.
- Explaining the necessity of drawing up medical insurance for temporarily staying foreign citizens, who do not work, wide spread of information about effective insurance programs and insurance companies.
- Bringing to responsibility of employers who illegally use foreign labour and thorough check up of immigrants' complaints at employers.

Compiling of a data bank of unconscientious employers. Representatives of all power bodies must use unified approaches to this question in order to give qualified advice.

- Searching for foreign citizens and persons without citizenship who lost their documents, and found themselves in a predicament on the territory of Sverdlovsk region in order to facilitate their return home.

It is necessary to set up places for temporarily residence for such people and assist them to restore identification and other documents.

Will they return the money?

Participation of people in financial operations with banks, insurance companies and other credit institutions remain a zone of risk.

One can't help pointing out that the measure taken by state in the past years to reform banking system and create a system of insuring bank holdings, as well as passing of Federal Law "On payments of Bank of Russia on deposits of physical persons in the bank which are recognized bankrupts and do not participate in the system of compulsory insuring of deposits of physical persons in the RF banks" (N96-FL of 27.07.2004) give some hope to depositors that their investments will be returned to them.

However the situation with the withdrawal of license for banking operations from Commercial Bank "Granit" on May 12, 2005 which had three thousand investors in Ekaterinburg clearly shows that bank's bankruptcy still brings losses and sufferings to investors and violation of their right to private property.

Bank of Russia informed that the reasons for the withdrawal of license from bank "Granit" were among others nonfulfilment by "Granit" of federal laws regulating banking activities, carrying out of highly risky policy for "long period of time, nonfulfilment of its creditors' liabilities claims. However more than half a year prior to this withdrawal bank "Granit" in Ekaterinburg found itself in the focus of Ombudsman's attention as a credit organization which infringes the rights of investors to their means.

Ombudsman initiated a working meeting with the CEOs of the bank branch "On financial strength and paying capacity (solvency) of bank "Granit" branch, on how the rights of people to private property are observed by the bank". As a result of the meeting Ombudsman applied to Y.A. Kovalyova, deputy chairperson of Sverdlovsk region Government, and to A.A. Tikhonov, chairman of the Board of Directors of Commercial bank "Granit" with a worry that the rights of citizens to freely dispose of their property guaranteed by RF Constitution were violated. Ombudsman insisted on taking measures for reviving investors' confidence in the bank. Unfortunately, neither the Board of Directors nor Central Bank of Russia succeeded in taking timely financial situation measures.

Ombudsman took under control the procedure of bankruptcy and assists investors to formulate their demands.

Despite all financial sanitation measures another company – this time insurance company "Rosgosstrakh – Sverdlovsk" went bankrupt and thus infringed institutional right of almost 80 thousand people to private property in the form of

insurance deposits which may cause strengthening of social tension in the territory of Sverdlovsk region.

Ombudsman together with P. S. Sizov, manager of the Regional Fund for Protection of the investors' and stockholders' rights, continued to consecutively restore justice in respect of people who suffered from inconsciencious activities of financial and other companies. Sverdlovsk region takes the fifth place in the Russian Federation and the first place in the Sverdlovsk region for this kind of work. So far more than 31000 people got compensatory payments from the federal budget amounting to the total sum of 21.5 million rubles.

Since 1998 till today more than 100 thousand people have been registered in the Fund. As a result, only in the year 2005, 7340 investors and shareholders of Sverdlovsk region received monetary compensation totaling to over 6 billion rubles. Among them invalids, participants of WW II workers of home front, war and labor veterans, "blocadniks", rehabilitated, pensioners and other poor groups.

Monetary compensations of 1000 rubles are paid by the Fund to those who had been declared by one of 361 companies, including "Russian House Selenga", "Khopyor – Invest", "Tibet", "Albi – Diplomat", "Russian Merchants' House", etc.

In collaboration with the regional Fund Ombudsman continues to look for local companies which took money from investors and did not fulfill their financial obligations in order to add them to the list of companies for compensatory payments to investors and shareholders who had suffered from their machinations. Thus we collected and tent to the Fund documents on Association Business World, information about the credit –consumer union "Esther". We continue to collect materials about two more companies - "Tekhnesis – Bistriye Pelmeni" and "Imadge". The Fund works with the investors and shareholders through their representatives in 22 municipalities (Nizhny Tagil, Kamensk-Uralsky, Pervouralsk, Asbest, Serov, Artyomovsky, Revda, Verkhnyaya Salda, etc.).

Ombudsman together with the regional Fund intends to continue this work.

Also in 2005 Ombudsman consecutively facilitated the protection of the car-owners' rights. Questions of tariff privileges for invalids who got their cars free from social insurance bodies have actually been settled.

Ombudsman's ideas for future development of a more favorable and predictable legal field of Compulsory Insurance of auto-civil Responsibility Company in Sverdlovsk region a forwarded to Sverdlovsk region Government and RF State Duma and RF Government.

I have land but not right to it...

Citizen K. applied to Ombudsman to straiten out the problem of giving him lend ownership (Appl. No 05-13/2329). It was revealed that on the coveted piece of land an individual dwelling house is located which belongs to K. by the right of ownership: K. inherited the house and has a certificate therefore. Since 1996 K. paid land tax regularly. In January 2003 K. applied t the body of local self

management "Committee for management of municipal property" in Serov to give him the land into ownership.

V.A. Baldin head of the department of land resources in Serov in breach of Land Code of RF orally refused K. and suggested that he signed a tenement agreement. K. signed the agreement, but later broke the agreement as the payments were too high. When K. applied for land ownership a second time he again was refused.

Ombudsman advised K. to bring his case to the local judge of the peace to restore his right to the land patch under his house.

In may 2005 applicant E. informed Ombudsman of her disagreement with the refusal of Ekaterinburg Administration to let her take into private ownership her small land patch (575 m square) on the territory of non-commercial partnership "Sverdlovsk Agricultural Institute" in Ekaterinburg.

She was explained that electric line under which the patch was situated prevented any land ownership. After numerous refusals from Ekaterinburg Administration E. applied to Ombudsman's Public Reception at the Law department of Liberal Arts University and was assisted in preparation of all document for court listening. The Court decided Ekaterinburg Administration must give E. the land patch into private ownership.

One of the most serious obstacles is arbitrary rule of chiefs of different levels who use red tape very actively.

RF President's suggestion to carry out the so – called "dacha amnesty" and help people legalize in simplified order their garages, dwelling country houses, "dachas" and land plots" gave rise to hopes for quicker settlement of these problems. But everything turned out to be not so simple because a new legal mechanism was necessary to guarantee a shorter way to coveted goal. Perhaps this mechanism will start working no sooner than in summer 2006.

Cooperation with the organs of power, interregional and international cooperation

The year 2005 is marked by especially active cooperation of Ombudsman with the organs of state power and local self-management, interregional and international cooperation in the sphere of protecting human rights and freedoms, by variety of forms of cooperation, greater number of partners and wider scope of problems for discussion. Visit of V.P.Lukin, RF Ombudsman, to Sverdlovsk region in January 2005 started the countdown. V.P.Lukin took part in discussing ecological problems, conditions of life for women-convicts in colonies and prisons, social support for the disabled and the elderly in old people's home.

Fruitful cooperation of Sverdlovsk region Ombudsman with V.P.Lukin, Federal Ombudsman, with E.A.Pamfilova, Chairperson of the Presidential Council for facilitating the development of civil institutes a human rights helped to protect and restore violated rights of dozens of people in the region.

Traditional have become Ombudsman's meetings with State Duma deputies and representatives of executive organs of power in the region, with heads

(representatives) of federal services – labour inspection, employment services, migration agencies, punishment execution institutions, bailiffs etc. Exchange of information and participation in various arrangements were held in the region and federal centre.

Meeting with Chiefs of Chambers, deputies of legislative meeting of Sverdlovsk region, Governor of Sverdlovsk region, Head of Government, heads of Ministries and Departments of Sverdlovsk region and other functionaries have become general practice.

Ombudsman would like to stress the turn of the power structures towards European and international standards of law and further mastering of international tools of protection.

Meetings with P.A.Laptev, RF representative of the European HR Court, with A.N.Kovler, Judge of the European HR Court, Mr. Mickle de Salvia, Chief jurisconsult of the European HR Court facilitated this turn.

Ombudsman organized a seminar “European standards of protecting the right to just court hearing. Decisions of the European HR Court regarding RF” for state and municipal functionaries in Sverdlovsk region. Participants of the seminar had a rare opportunity to prepare themselves for solving various social problems.

Ombudsman is also part and parcel of the project of the Ural Centre of Constitutional and international protection of human rights “Practical School for young lawyers in international protection of human rights” in collaboration with the representative of European Committee in RF. A series of seminars “European Union and human rights in the Urals” for representatives of public organizations was held.

All these actions helped to settle many problems locally prior to the European HR Court hearing and strengthened the degree of legal protection of the residents of Sverdlovsk region.

A number of joint projects were held in the Sverdlovsk region with Ombudsman's support, for example Russian-German project of developing tolerance in Sverdlovsk region; Russian-British project “Ethnic minorities and access to justice”; joint project of Sverdlovsk region and Kirgiz Republic “Facilitating improvement of mechanisms of interstate cooperation on the problems of labour migration”; in cooperation with American Lawyer's Association a project of evaluating of how Russia fulfills demands of the Convention on eliminating all forms of discrimination towards women.

Sverdlovsk region Ombudsman's participation in international conference of EOI “Tolerance as a factor of stable development of modern civilization” (June) in the work of General Assembly of EOI (September) filled with new meaning Ombudsman's cooperation with the well-known international rights protecting Centre. Sverdlovsk region Ombudsman continued to cooperate with Alvaro Hill-Robles, HR Commissar of EU and Alexander Hessel, his advisor.

Cooperation with regional and national Ombudsmen focused on the problems of protecting and restoring human rights, improving results of applying, methods of joint work with state legal structures and non-state organizations.

Special place in 2005 took the seminar "Interaction of state and public HR institute: Russian practices and foreign experience" held in August 2005 in Ekaterinburg in which many people participated: experts from Moscow HR Institute (V.Gefter), Ulof Palme Center (N.Alekseyeva), representatives of right protecting public from Sweden. Participation of Ombudsmen from 7 RF subjects including Ekaterinburg, Perm, Kurgan, Ufa, Tchelyabinsk, Khanti-Mansiisk, 16 municipalities of Sverdlovsk and Tchelyabinsk regions.

Public opinion of the state and legal protectedness of man on all levels, analysis and of use of Russian European law in the activities of the HR institutes on national and regional levels confirmed the necessity of developing state rights protection which resulted in the Appeal towards heads of executive power adopted by the participants of the seminar.

Employees of Ombudsman's office participated in a number of meetings and seminars as well; e.g. in training seminars held by Moscow-Helsinki Group, by the Fund "Public Verdict", in conferences and round tables in Kazan, Bryansk, Kemerovo, Samara and other RF subjects and in Tashkent, where Ombudsman's representative made a report at the conference of International Migration Organization.

I should specially emphasize that the meeting of Ombudsman with her counterpart from Armenia in May 2005 helped to improve effectiveness of both parties in protecting their respective citizen.

Rights protecting organizations: more independence

In 2005 cooperation with human rights protectors continued on the basis of accumulated experience.

Already in spring relations with law enforcement agencies of the region and federal district improved. We held a conference devoted to a difficult question "How to exclude illicit violence and torture from the work of law enforcement agencies". The main positive difference of this conference is the participation of high-ranking headquarters representatives. The theme of the conference is very telling – cooperation of Ombudsman with law enforcement bodies in observing and protecting lawful interests and rights of citizens.

M.Yu.Romanyuk, deputy Head of Chief Department, agreed that public organizations and Ombudsman help to combat violence and red-tape in (militia) police.

Unlike in the past today we have begun to carry out joint work, like large scale inspection of isolation cells of temporary detention. The joint inspection resulted in a special report the general conclusion of which is – we are still far away from European standards.

During the year 2005 activities of public organizations cooperating with CPDE have grown considerably. It is caused by the fact that problems of inmates and discharged now refer to a big group of people.

The primary goal of these organizations is to assist a former inmate find his niche in ordinary free life where there is no strict discipline or guardianship of

state. Freedom often brings unconquerable problems to them: where to live, how to earn living? So far the efforts of these organizations are often fruitless, and the experience of the so-called Employment Bureau which provides shelter and job to "bomzh"es (homeless people) and discharged inmates remains unique. When grant support extinguished in May 2002 Yu.I.Potapenko and Union of right protectors continue financing from volunteer donations. State power has not given any support despite many promises.

Second focus for rights protectors is more traditional – protecting the rights of inmates. Changes for the better are now seen, but they are not sufficient. I think penitentiary system must be more open to society, so that anyone might render assistance to inmates and take part in checking complaints.

There is hope that State Duma will pass a Law to this effect but everybody must be ready to use this law correctly.

The work carried out by the Union of rights protectors deserves every support – they are rendering legal assistance to poor people in far away villages and towns of Sverdlovsk region.

On December 10, 2005 the Union held in cooperation with Sverdlovsk region college of advocates a kind of "subbotnik" (reception of weekend) during which they consulted people without charging payment. More than 100 people got advice of specialists.

Legal clinics of a number of higher schools of Ekaterinburg acted as reliable partners to Ombudsman in the legal protection of citizens in the year 2005.

The oldest of them is the Public reception of Ombudsman of Sverdlovsk region – legal clinic of Liberal Arts University which started together with the introduction of the post of Ombudsman in the region: Dr. Svetlana Glushkova, deputy dean of department of Law of LAU. The clinic renders regular help in civil, family, labour cases by consulting, preparing packages of documents, representing citizens' interests in various state bodies including courts. Several hundred people apply to the clinic every year, 10% of whom get attorney support in court if necessary. Internship senior students act as consultants in the clinic and they treat every application very attentively. I want to mention just two girls: Irina Virodova and Katya Neverova who helped citizen E. to win her case in court against Ekaterinburg administration. E. was very enthusiastic in her appraisal of the girls' assistance: "If it were not for Ira and Katya who acted very professionally I would never win the case!"

Mediator's functions are very important in the work of Ombudsman who connects public and state bodies together for the sake of observing and protecting human rights. But such mediator must not turn into a nanny or a guardian for a public organization. Mediator is wanted in a situation of conflict, lack a understanding and cooperation. In all other circumstances public organizations must be self-dependent.

A modeled such self-dependent public organization is the Committee of Soldiers' Mothers whose leaders M.M.Lebedeva, V.V.Gorbunova and E.L.Patrakova only turn for assistance when fail to settle the problem themselves and need support of Ombudsman. On the other hand their deep knowledge of army

life makes them highly qualified experts in contacting Army Chiefs. And this quality turns the Committee into a very important and reliable partner to everyone including governmental human rights protector. This helps the Committee to work for many years without any reliable financing, getting money from volunteers only.

I think one of the most important directions of joint work with public human rights organizations is training activists in these organizations. Ombudsman facilitated training of activists in seminars and conferences with participation of experts, for example in 2005 such training seminar was attended by a representative of the European Commission in Ural region and by a number of public organizations ("Dostoyaniye", "Sutyazhnik"). Dozens of public activists raised their qualification in these seminars and conferences.

One more significant event took place in 2005: Ombudsman, human rights protectors and Duma deputies together discussed a draft of a new regional law "On holding pickets and rallies". Another initiative of activists, open public listening of Sverdlovsk region budget, was not supported by deputies, but the precedent is still important.

There are still drawbacks in this work: poor material equipment and insufficient financing of public organizations. I think it is time to seek grants with the regional budget and public resources which are used throughout the globe on a wide scale but remain unknown for public organizations in RF. It is time to introduce this system in this country. Russia's reality is that always state used to be the primary and main institute affecting mass consciousness. That is why rights protecting community should not miss any opportunity to cooperate with state structures. Legal enlightenment is the sphere in which rights protectors can come to wider audiences via joint work with governmental organizations.

Lessons of Law

Enlightenment remains one of the most important priorities for both Ombudsman and rights protecting community. And in this sphere we can boast of examples of large scale joint projects both with governmental structures and public organizations.

Mass participation of high school students in contests annually held in the region clearly shows what educational sphere is capable of. The year 2005 was no exception. In cooperation with the regional Ministry of gen. and voc. education and its Institute for Developing Regional Education the project "School of legal space" suggested by Education Minister as early as 2003 continued to develop.

10 towns of Sverdlovsk region were represented in All-Russia contest of essays "Human Rights as Seen by Child": 44 essays by school students from Kushva, Kamensk-Uralsky, Artyomovsky were especially active. Essays were presented by children of two age groups: junior (5-7 forms), and senior (8-11 forms). Irina Gavrilova (and her essay "My registered address is Children's Home") was found best. Other winners were Zoya Konovalova from school №34 in Kamensk-Uralsky, Edward Danilov, pupil of 4a grade school №5 from Ivdel

submitted an essay "Child's rights at school and at home". These works were sent to Moscow, to RF Ombudsman.

Marina Pashiyeva, Liberal Arts University undergraduate was awarded for fruitful participation in the open International Law Students' Competition of best research papers "Threat to security in contemporary world and human rights". As a result Marina has been offered jobs variants in Moscow.

Law Department and Chair of Human Rights of Liberal Arts University initiated holding Regional Olimpiade in human rights. 34 pupils from Sverdlovsk region participate in various kinds of intellectual and business games, met Ombudsman, Liberal Arts University representatives. The witness of Olimpiade from revda, Sukhoi Log, Ekaterinburg, Katchkanar and Alapayevsk district took part in the Summer Human Rights School held by the Ural Human Rights School.

Exchange of experience in legal education was organized at the so-called round table between Udmurt Ombudsman, Institute for Developing Regional Education, Urals Human Rights School, Liberal Arts University Centre for Human Rights.

Journal "International Amnesty" (2005, №31) published the article by S.I.Glushkova, member of Expert Council under RF Ombudsman and G.E.Zborovsky, Head of joint UN and RF Foreign Ministry project "Facilitating the development of human rights education" devoted to the problems of legal education in Sverdlovsk region. The authors summarized the experience of Ekaterinburg higher and secondary schools, liceums, centers, public organizations in the development of human rights education. Both the authors mark enthusiastic participation of Sverdlovsk region Ombudsman in enlightening process.

Ombudsman herself took an active part in enlightening programs for school teachers, ("Development of social-legal competence of teachers", "Human rights: theory, methods of teaching at school", "Sociological education as a means of personality socializing" and others). All the participants of seminars got kits with legal literature.

A number of conferences in Sverdlovsk region were also conducive to the exchange of experience: one held by Liberal Arts University "Legal, pedagogical, organizational problems of Russian juvenalistics in legal and cultural space of contemporary Russia" (February, 2005), "Legal culture of population and law enforcement" (December, 2005).

Ombudsman paid special attention to fostering tolerance in young people and met with young intellectuals (February), winners of All-Russia Competition "Men in History. Russia. XV century" (May), LAU students of Law Department (March), schoolchildren of Ekaterinburg and Sverdlovsk region (September, December).

Ombudsman initiated the meeting of pupil from school №3 from Rezh with children from Tchechnya who were resting in a camp near Asbest. As a result pupils began to correspond with Tchechen children. The Ural children commiseration with Beslan victims was appreciated by Head of Republic of Northern Osetia-Alania T.Mansurov.

Chair of Human Rights of Liberal Arts University invited Ombudsman to give a course of lectures "Institute of Ombudsman in contemporary world", and one of the first information books published by Ural School of Human Rights in LAU was entitled "How to appeal to Sverdlovsk region Ombudsman".

During the whole year Dr. Svetlana Glushkova, director of HR Center in LAU, and B.B.Bagirov, dean of politology and sociology Department in State University, I.S.Ogonovsky, Head of social-humanities education of Institute for Developing Regional Education rendered Ombudsman assistance in legal education.

Urals Law Academy has also become good partner in holding enlightening arrangements. For example, Conference in Comparative Jurisdiction in April attended by A.I.Kovler, judge of European Human Rights Court, P.A.Laptev, RF representative in EHRC and Mickele de Salvia, EHRC chief jurisconsult. Presentation of de Salvia's book turned out a big event for local juridical public.

Release of a third text book in human rights (this time for third graders) prepared by local Educational Ministry became an event of the year 2005.

S.S.Alekseev's book did not pass unnoticed either. (He is one of main authors of art.2 of RF Constitution and a prominent human rights researcher).

I want to mention a few other events, such as reconstruction of Pavlik Morozov Museum in village Gerasimovka, and one of last before closure expositions of famous Youth Museum in Ekaterinburg devoted to Academician Sakharov. Unfortunately this unique museum is to be closed because of Municipality's negative attitude.

Unfortunately rights protectors failed to organize publishing of an information bulletin they have been long planning.

Rights protecting community is not very numerous, unfortunately. So correct distribution of forces and focus of efforts on the most significant strategic directions is extremely important today. Legal enlightenment for all strata is key direction for human rights public activities. To overcome mass legal nihilism and illiteracy seems a very large scale task.

Our Perm counterpart's initiative seems very interesting in this connection: on the eve of 2006 they set up a Union "For civil influence". Their aim is to facilitate civil influence in Perm Krai (territory). And the main tools for this Union are as follows:

- Agency for facilitating civil influence for legal, informational and methodological support for groups of civil influence and activists in presenting demands to organs of power.
- Information centre of civil influence for monitoring lawmaking actions of power bodies and dissemination of legal information.

Thus Perm colleagues intend to find routes to people and prove their practical usefulness to common people. To teach people solve their problems themselves is a very important and far-going work.

Work with the young people of Russia is the most important direction in legal enlightenment. Current pupils and students will give main answers to challenges of the XXIst century. What answers will they give? Will they take into

account human rights as the primary and unconditional value to sacrifice which is deathly dangerous? In order to get a positive answer I believe rights protecting movement must focus efforts on legal enlightenment.

Conclusion

I give my acknowledgement to all who helped restore the rights of our citizens. Ombudsman alone cannot help man. Certainly, close attention to Sverdlovsk region's authorities to common people of region, town, district appears to become characteristic.

I would like to wish everyone – mind, we work for the sake of man.

Do not rebuke Ombudsman for bitter criticism – there will be no rebukes if people will get attention enough.

T.G.Merzlyakova,
Sverdlovsk region Ombudsman

January 12, 2006.