

Highlights in the work of the Ombudsman in 2007

The established practice of inquiring cases by using methods of immediate insight and monitoring the conditions not only on the basis of cases but wider, on a global level, maintained a priority for the institution in this report year.

The focus was directed to the following issues:

Building citizens' confidence in the institution by promoting it through continuous informing on its competences and possibilities for protection of human rights;

Inquiring the cases by the method of immediate collection of relevant material;

Monitoring the conditions related to the phenomenon of discrimination and respecting the principle of appropriate and equitable representation and gender inequality;

Close collaboration with the media and objective informing about the work of the public administration.

Everything mentioned above is based on our motto

We help citizens practice their rights and freedoms in an easier way; public administration to become a real service and promote the relations between the authorities and the citizens.

and our principles:

We follow and monitor the activities of the authorities publicly, honestly and professionally.

Equal in the relations with everyone.

Professional in our work, open for suggestions and prepared for a permanent progress.

Idzet Memeti



**The Ombudsman assisted
848 citizens to realize
their rights**

After conducted inquiries, ascertained violations and interventions implied, the Ombudsman assisted 848 citizens in fulfilling their freedoms and rights.



**A juvenile beaten for not knowing where
the Ce Ge Vara Street is**

After the ALFI Unit did not get the information about the address of the person they were looking for, the ALFI Unit beat the juvenile and in order to cover up the illegal action, they took him to the Police Station Chair, allegedly for identifying.

After a conducted procedure, in which relevant evidence was provided, the Ombudsman submitted a request for initiation of a procedure for ascertaining punitive responsibility against the police officer A.R. from the Special Mobile Police Unit for fight against criminal. The Public Prosecutor accepted it and addressed the competent court to open and conduct an investigation for a criminal action against human and citizen's freedoms and rights, apart from the Interior Control Sector's attempt to conceal the police officer's responsibility.

**Mental and physical molestation is still an instrument
for "efficient" performance of duty**

In order to admit a criminal action he did not do, a citizen from Skopje was tortured in many ways by police officers at the Chair Police Station.

After collecting relevant evidence on the performed punitive action during an inquiry, the Ombudsman submitted it to the Basic Public Prosecutor requesting to initiate a procedure.

Later on, the Ombudsman was informed that the Basic Public Prosecution from Skopje requested from the competent court to conduct an investigation against the reported police officers based on founded suspicion for performing a criminal act Torture and other cruel, inhuman and humiliating actions and punishment according to article 142, paragraph 2 in relation with paragraph 1 of the crime legislation. For this case, the Interior Control Compartment claimed no surpassing of official duty¹, as well.

¹ In 2007 there were other cases like this one

Through perseverance to the truth

Convinced that the Interior Control Sector did not clarify the case completely, the Ombudsman, being persistent in the inquiry, managed to ascertain the real situation after what it found violation of rights as a result of unnecessary use of physical force and asked the police officer to apologize to the juvenile's parent. The Officer accepted the Ombudsman's request and apologized to the juvenile's parent for the action done.

The right of citizenship realized after a 13-year-long procedure

A female citizen from Skopje applied for citizenship of the Republic of Macedonia, on the basis of marriage with a Macedonian citizen in 1994.

Following the Ombudsman's intervention, a decision was issued by which the complainant was finally awarded citizenship of the Republic of Macedonia.

Veil is not an obstacle for realization of constitutional and legal rights

The Ombudsman submitted information to the Government of the Republic of Macedonia, requesting amending of by-laws on the manner of photographing citizens for personal documents.

At the same time, the Ombudsman submitted a proposal to the Constitutional Court for initiating a procedure for estimating the constitutional and legal aspect of the Rules for personal documents and visa forms for the citizens of the Republic of Macedonia, referring to the provision which provides frivolous and discriminatory behavior of the issuing body when deciding upon religious reasons for photographing with a cover (veil) on the head.

It took one year for the Minister of Interior Affairs to react and amend the Rules, despite the Ombudsman's intervention.

Denationalization Commission at the municipality of Gazi Baba obstructs the work of the Ombudsman

Denationalization Commission at the municipality of Gazi Baba did not reply to a single request by the Ombudsman in terms of measures taken for realization of submitted requests, proposals, opinions, recommendations or implications. The minister of finance and the Government were informed on this issue.

Despite, no measures were undertaken. Because of that, the irresponsible behavior of the Commission's president and its members is surprising, and so is the minister's tolerant attitude since he did not take any measures to sanction these irregularities.

Following the Ombudsman's intervention, the right of a former employee at a bankrupt company fulfilled

A former employee at a bankrupt company from Kicevo requested from the Ombudsman to intervene because she was not able to realize the financial request from the bankrupt debtor HUP "Metropol" from Skopje.

Although the court and the trustee of bankrupt's estate claimed that the request was paid, still it did not happen after the Ombudsman had found and proved that the trustee of bankrupt's estate did not act according to the court order.



There is still violence to children at schools

After inquiries in 86 schools and anonymous survey of 4500 pupils from fifth to eighth grade, the Ombudsman found that this issue is still present at schools. The data gained from the inquiry is worrying, so the Ombudsman informed the Ministry of Education and Science and the Government of the Republic of Macedonia on this issue.



Inapplicable legal solutions for protection of children from alcohol and cigarettes

After conducting a survey on respecting and applying the legal prohibitions for serving and selling alcohol and cigarettes to juveniles, the Ombudsman found that there are not appropriate, efficient and easily applicable mechanisms for practicing legal prohibitions for efficient protection of children from use of alcohol and cigarettes. So the Ombudsman recommended to the competent institutions to take all necessary measures.

Schools are not safe

After an own-initiative inquiry, the Ombudsman found that the majority of elementary and high schools do not have the necessary protection, in spite of having the responsibility to provide secure and safe stay of the children. In order to solve this problem, the Ombudsman recommends immediate system intervention.

Upon the Ombudsman's proposal, the Constitutional Court annulled provisions from the Law on Health Insurance

The Constitutional Court annulled article 1 from the Law on amending and clarifying the Law on Health Insurance, for being incongruent with the Constitution, since it stipulated that expenses for the basic health services (which should be borne by the Social Insurance Fund, according to the Law) should be borne by the citizens, in case they utilized the services in an institution which does not have a contract with the Fund.



The Law on Health Protection is not applied to convicted persons

The practice of not having health insurance, thus not being able to realize the health insurance right by the convicted persons in the penitentiaries in the Republic of Macedonia, still continues.

After one recommendation by the Ombudsman, 81 citizens were employed

After ascertaining violation of rights in the employment procedure and submitting a recommendation to the Secretariat General at the Government, 81 citizens managed to realize the employment right.

In the European year of equal opportunities, the Republic of Macedonia without a law on indiscriminination

In 2007, the Law on Indiscrimination was not passed, although passing a separate law on this area represents a basic prerequisite for efficient and effective discrimination protection.

The Ombudsman in cooperation with the local government

“What and to what extent is the collaboration of the local government and the Ombudsman” was the topic of two round tables held in Strumica and Kumanovo, assisted by the OSCE Mission and the Swedish International Development Agency SIDA.

The dialogue between local government representatives and the Ombudsman was a possibility for confirming the mutual collaboration, especially in the field of decentralization, to identify the weaknesses and to define which sector has a need for improvement of the cooperation, in order to provide realization of citizens' rights and freedoms in a manner of higher quality.

Transparency and Collaboration

Transparency and availability for media, in order to inform the public objectively on the Ombudsman's activities, as well as the institution's attitudes towards the functioning of the public administration in this report year were the major priorities in the institution's activity.

Namely, in the previous years, the Ombudsman acted in terms of establishing the institution appropriately on the public scene in order to gain the citizens' and public's reliability in general; that course remained unchanged aiming to increase the citizens' awareness of the institution's competence.

Having in mind that the Ombudsman in the societies it acts has the role of a promoter of conduct culture of the public administration, it can be freely said that the Ombudsman, in the report year, was trying to emphasize the necessity of establishing such a concept in the public administration's functioning.

On the other hand, besides the fact that the media is one of the major means for successful work of the Ombudsman and for imposing pressure on the public administration for appropriate acting and behaviour, while informing the public special attention was paid to the substantiality of statements given, based on previous inquiries. This was caused by the ever-present danger of review, only for the sake of the review, to produce counter productive effects, which is not the aim of the Ombudsman. On the contrary, the review

according to the Ombudsman should always produce a motive for better functioning of the public administration, which leads to appropriate realization and protection of citizens' rights, which is the core activity of this institution.

However, it must be pointed out that an improvement was achieved in the area of communication with the public administration in terms of receiving information requested by the Ombudsman on time, which was accented while informing the public;



although it was still emphasized that besides the progress achieved, there is still room for more efficient accomplishment in terms of relevance of information submitted by the state bodies.

This report year as well, the Ombudsman faced cases which, as a result of their nature, caused reviews by certain media as a kind of pressure aimed towards achieving certain objectives by certain subjects in the society.

This did not result in hesitation for the institution to continue its activities in terms of the direction set before: objective and relevant stating of the real condition in accordance with the legal authorities which resulted in a positive effect since the reliability for expressing consistent and



objective attitudes was emphasized, which is of crucial importance for the role of the Ombudsman in the society.

On international level, the activities referring to strengthening of the collaboration with relevant institutions in the region and wider continued. Thus, the Ombudsman took active part at the Conference organized by the Ombudsman of Greece and the Human Rights Commissariat at the Council of Europe in order to promote the collaboration of the Commissary with the Ombudsman institutions in Europe, which represents a significant moment in the protection of human rights.

Similarly, the Ombudsman continued taking active part in the Ombudsmen Association and the mediators of Francophony. On the occasion of enrolment of the Ombudsman of Bulgaria in this association, the Ombudsman attended the members' meeting in Sofia, Bulgaria. That was a preparatory meeting before the Annual Assembly which took place in Mali, where the Ombudsman took part both as a member of the Association and as a member of its Secretariat.

As a result of the status the Republic of Macedonia has – a candidate country for accessing the European Union, the institution, for the first time, was invited by the European Ombudsman at the conference in Strasbourg, France, the aim

of which was a network of ombudsmen of EU member countries to be established.

The Department for Protection of Children's Rights within the Ombudsman, which starting from 2008 is a full member of the European network of children Ombudsmen ENOK, took an active part within the network during 2007.

The Statute of ENOK passed in 2006 according to which, only independent institutions for protection of children's rights of the Council of Europe member countries can be full members, established by law and having the authority to protect and promote children's rights, i.e. a law which would not restrict the institution in performing its competences. At the same time, one prerequisite for full membership is for the institution to have one or more persons engaged exclusively in protection and promotion of children's rights. The manner of appointing the person for protection of children's rights and his authorities shall be stated by law.

According to the existing standards, the institution may be constituted as a separate and independent institution or as a part of an independent national institution for protection of human rights; in both cases it has to fulfil the abovementioned criteria. All



full members of ENOK so far, including the Republic of Macedonia, have to submit a new membership application, by which within two years they remain full members. In case the above listed criteria are not fulfilled after two years' time, the full member status of ENOK is lost and a temporary status of an associate member is gained.

Starting from the provisions of the Statute and according to the present Law on

Ombudsman, the Ombudsman submitted an application form. However, it was established that the Department for Protection of Children's Rights, meaning our institution does not fulfil completely the conditions listed, since the Law on Ombudsman does not contain an explicit authority for the Ombudsman to protect and promote children's rights; the competences and which children's rights shall be protected by the Ombudsman are not regulated, the issue of appointing and selecting the person authorized for protection and promotion of children's rights is not regulated, as well as his competences and mandate, and the manner of his selection and reselection.

As a result of that, and in order for the Department of Children's Rights to remain a full member of ENOK, the Ombudsman submitted an initiative to the Government of the Republic of Macedonia for changes and amendments of the Law on Ombudsman, referring to the abovementioned requests and prerequisites. No information on the procedure course referring to the initiative has been received, although the repeated application shall be submitted until September 2008, the latest.



In terms of bilateral collaboration, it should be mentioned that the Ombudsman, in cooperation with the Embassy of the Kingdom of Spain and the OSCE Mission to the Republic of Macedonia organized a seminar entitled: "Freedom deprived persons' rights and women's rights", where the Ombudsman of Aragon, Spain took part as well.

The collaboration with the Swedish Development Agency – SIDA and OSCE Mission continued through creating new

project activities aimed to improve the communication with the local authority bodies and building capacities for the Ombudsman personnel. Thus, round tables



were organized titled: "Collaboration of the local authority bodies with the Ombudsman", which were held in Strumica and Kumanovo, where Regional Offices exist.

Since the Republic of Macedonia has signed, but not ratified yet the Optional Protocol at the Convention against Torture and other inhumane and humiliating behaviour, which states existence of preventive mechanism for control of the Police activities, the OSCE Mission prepared a draft project for analysis of the present mechanisms in the Republic of Macedonia which was further on developed in a project for creating a draft-mechanism for strengthening the external control system of the bodies authorized to conduct the law. The Ombudsman institution participated by preparation of a draft for legal and other structural changes which would contribute to the existence of appropriate capacities within the Ombudsman institution for performing the role of a preventive mechanism for Police activity control. A study visit to Belfast, Northern Ireland was realized, where several pillars, having the role of a preventive mechanism exist. The project continues in 2008 so that the suggested changes in the law and the institution structure can be implemented.

Upon invitation of the OSCE Mission, a representative of the institution participated at a meeting entitled: Protection and Promotion of Human Rights: responsibility and effective measures", organized by the Spanish presidency in OSCE and the Office for Democratic Institutions and Human Rights at OSCE.

One of the recommendations accepted at the meeting was the one made by the representative of the institution for providing financial independence of institutions for human rights as a guarantee for their independent functioning.



Within the frames of the Ombudsman Building Capacities project, financed by the Swedish International Development Agency – SIDA and the OSCE Mission, representatives of the institution realized a study visit to the Ombudsman of Slovenia in order to get acquainted with the work on complaints concerning Police activities and public relations.

The project for support and strengthening of the Ombudsman institution,

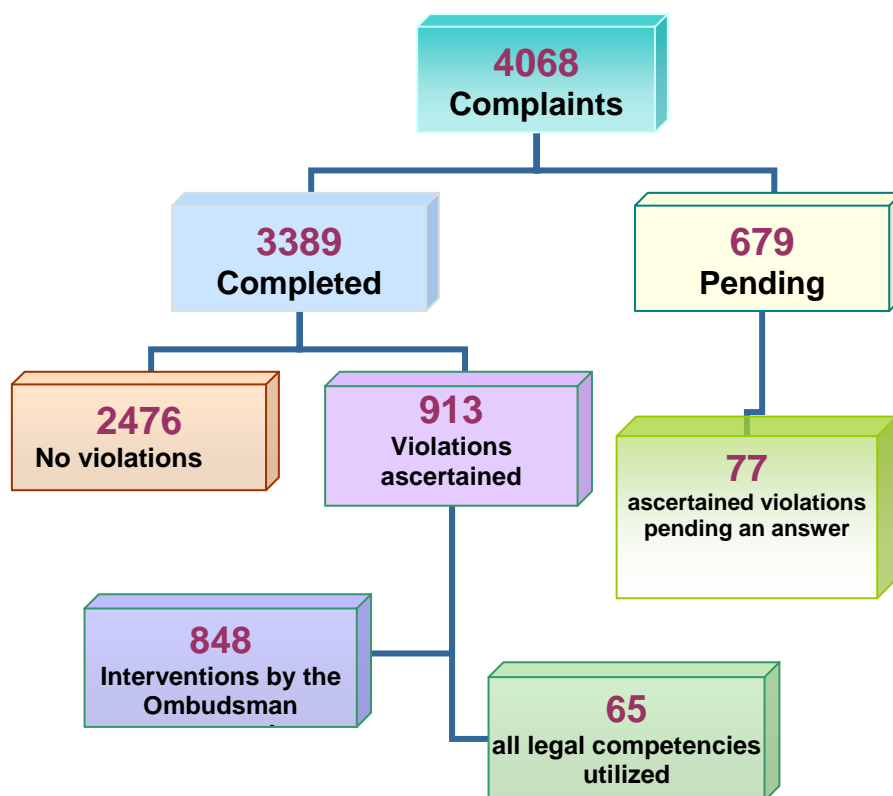


financially supported by the Swedish International Development Agency – SIDA and the OSCE Mission will continue in 2008, placing the accent on improving awareness of public servants of the competences the Ombudsman has, and improving the mutual collaboration, as well as for improving the awareness of the citizens for this institution.

Statistical Data

The existence of appropriate legal frames, efficient and professional institutions and professional and competent officials who impartially, objectively, professionally and equally apply and practice the law are the basic postulates for the functioning of a law abiding state. During last year, unfortunately, the kind and number of complaints submitted to the Ombudsman continued to represent noticeable lack of the above mentioned features, which represent the core of the existence of a legal state.

Like in the previous years, this year a great number of citizens addressed the Ombudsman in order to realize their freedoms and rights. On one hand, that implied the fact that the citizens recognize the Ombudsman as a protector of their freedoms and rights more and more, however, at the same time it indicates that administration, meaning the system institutions, have not been reformed enough and a lot of work should be done in order to make it an efficient service for the citizens.

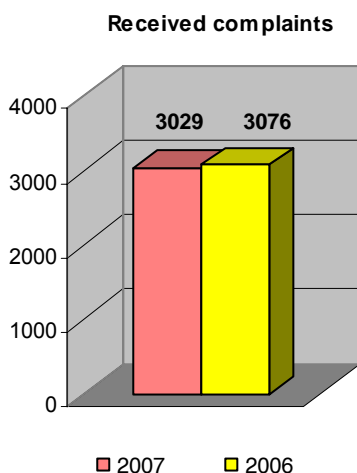


3029

New
complaints

Basic data

Chart No. 1

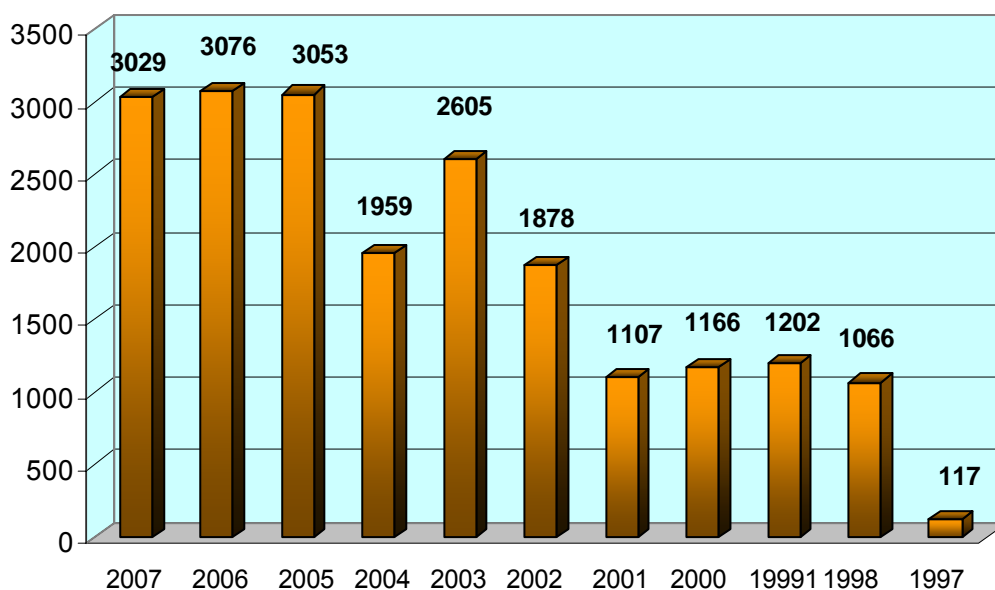


In 2007 the Ombudsman acted upon 4.068 complaints, 3029 of which were submitted within the reporting period by 3271 citizens. In 8 cases the Ombudsman initiated a procedure on its own, more than 4800 citizens were accepted for a discussion in both Skopje office and the regional offices, and more than 6000 phone calls were answered.

In this report year the number of complaints was approximately the same as the number of complaints in the previous two years.

Chart No. 2

Received complaints per years



4068

Complaints the
Ombudsman acted
upon

Fields of complaints

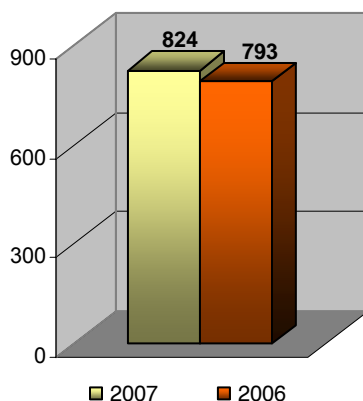
The majority of complaints by which the citizens requested protection were in the fields of: Judiciary 824 or 27,20%; labour relations 365 or 12,05%; in the field of protection of rights during police procedures and other interior affairs 347 or 11,46%; property rights 304 or 10,04%; in the field of urban planning and construction building 202 or 6,67%; pension and disability insurance 196 or 6,47%; in the field of social rights 126, respectively 4,16%; protection of children's rights 88 or 2,91%; housing relations 85 or 2,81%; in the field of consumers' rights (communal and other taxes) 76 or 2,51%; in the field of finances and financial issues 73 or 2,41%; health protection 67 or 2,21%; in the field of education, science, culture and sport 51 or 1,68%; in the field of environment protection 19 or 0,63%; in the field of discrimination and appropriate and equitable representation 6 or 0,20%; rights of military personnel and military conscripts 3 or 0,10%; as well as in other fields in which 197 or 6,50% complaints were submitted. (*Review no. 1, p.14 and Graph no.3, p 12*)

The review of the submitted complaints in fields, in comparison with the previous year indicates insignificant increase or decrease.

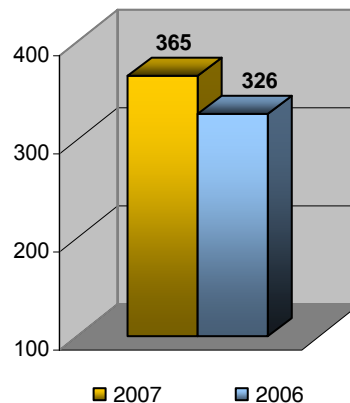
The greatest number of complaints refers to the inefficiency of courts, meaning the delay of judicial procedures, and the rest of them were in terms of acts and activities undertaken and passed by the appeal committees of the Government of Republic of Macedonia, the Ministry of Finance, the Ministry of Interior Affairs, the Ministry of Transport and Communications, the Ministry of Labour and Social Policy and by other bodies, as well as bodies which do not have public mandates.

Chart no.3

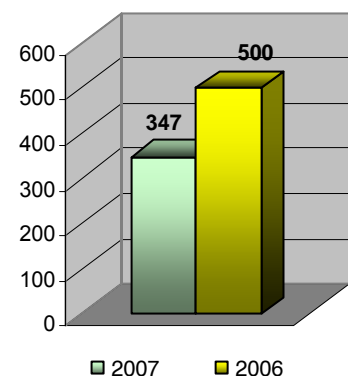
Rights in the field of judiciary



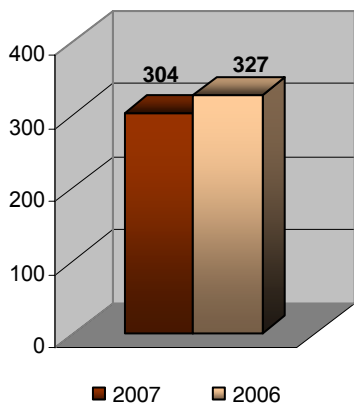
Rights in the field of labour relation



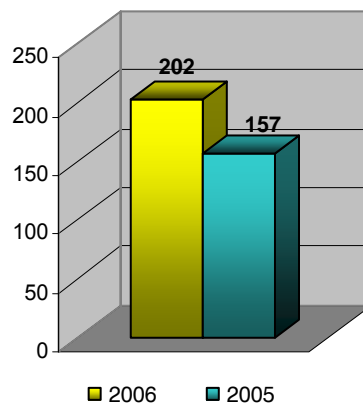
Rights in police procedures and other interior issues



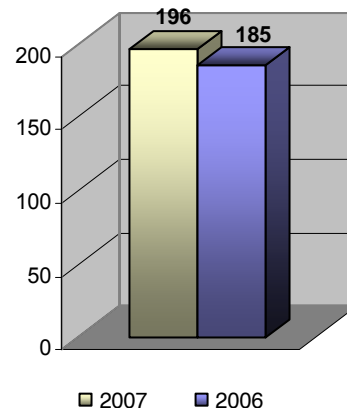
Rights in the filed of ownership and property relations



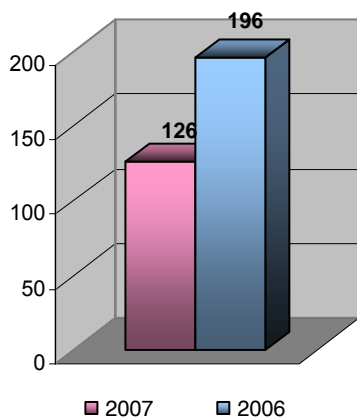
Rights in the field of building planning



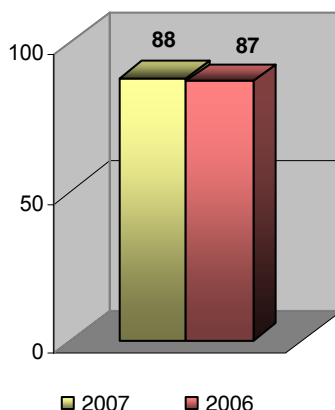
Rights in the filed of pension and disability insurance



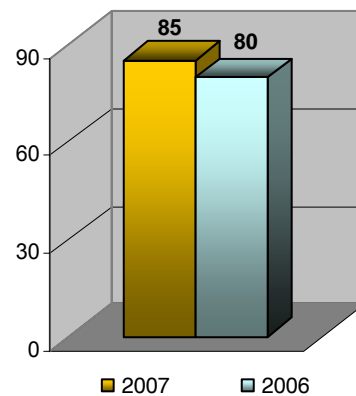
Rights in the filed of social protection



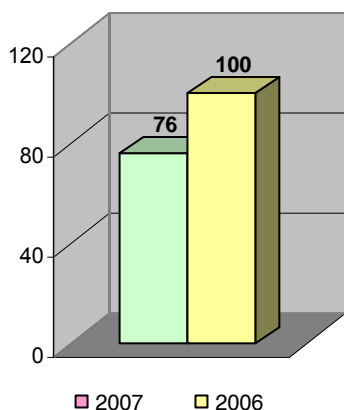
Children's rights



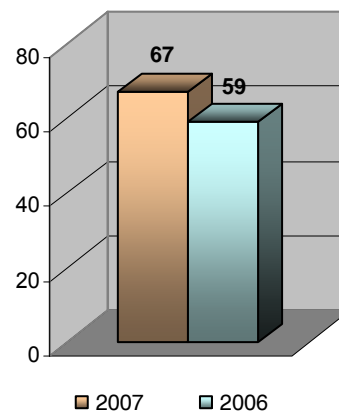
Rights in the filed of accommodation issues



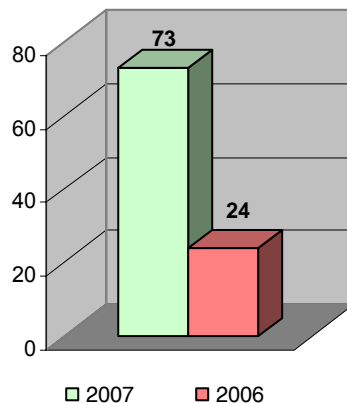
Consumers' rights



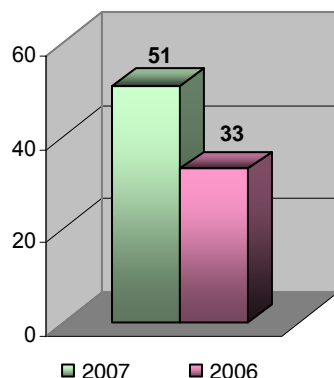
Rights in the field of health protection



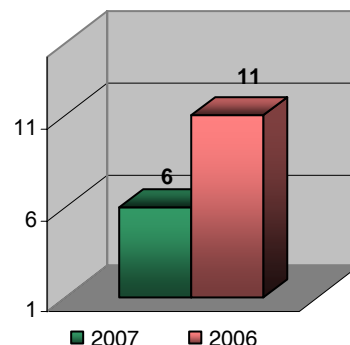
Rights in the filed of finances and financial issues



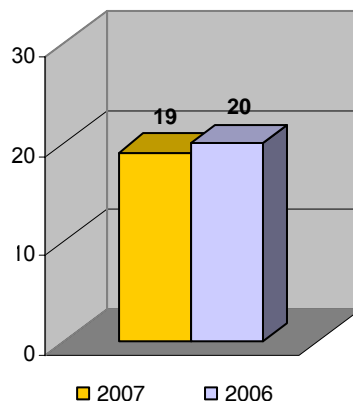
Rights in the field of education, science, culture and sport



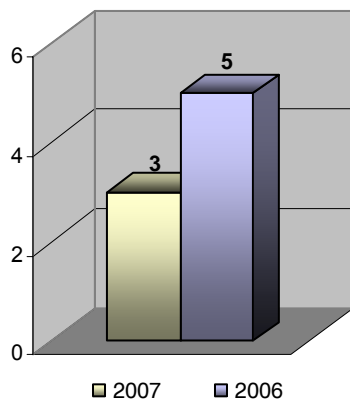
Rights in the filed of indiscrimination and appropriate and equitable representation



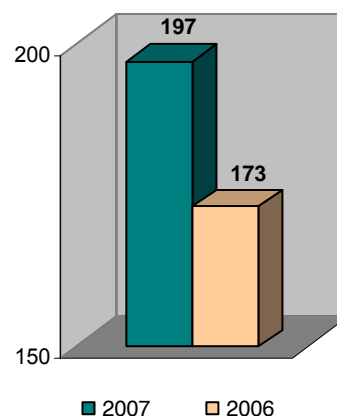
Rights in the filed of environment



Rights of military persons and conscripts



Rights in other fields



Review no. 1

REVIEW OF RECEIVED, CLOSED AND COMPLAINTS IN PROGRESS PER YEAR																
	Transferred from the previous year	Complaints received during current year	Number of submitters	TOTAL in process	Anonymous complaints received	Manner of closing						Information to the Ministers	Information to the Government of RM	Information to other bodies and organizations with public mandates	Total number of closed cases	Pending
						Decided to discontinue or not to initiate a procedure	Closed in other manner	violations ascertained								
								Opinions, suggestions and recommendations given	Acted upon Ombudsman's intervention.	Cases where the Ombudsman undertook all legal acts	Not acted upon Ombudsman intervention					
2007	1039	3029	3271	4068	11	2387	78	965	848	65	77	43	176	8	3389	679
2006	1206	3076	3344	4282	11	2329	102	1005	758	43	204	54	231	16	3243	1039

According to the complainants who declared their ethnicity, it can be stated that the greatest number of them 864 or 26,57% are Macedonians; 423 or 13,01% are members of the Albanian ethnic community; the smallest number 1 or 0,03% are Macedonians –

Muslims, while 1806 or 55,54% of complainants did not declare their ethnicity. It can be concluded that the number of complainants who do not declare their ethnicity is still big (Table no.3, p.16)

Table no.2

REVIEW OD RECEIVED, CLOSED AND PENDING PROCEDURES FROM 01.01. TO 31.12.2007 PER FILEDS																
Fields	Received in 2006	Number of submitters	Transferred from the previous year	TOTAL in process	Anonymous	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and institutions with public mandates	Total closed procedures	Pending
						Decided to discontinue or not initiate a procedure	Closed in other manner	Violations ascertained								
								Opinions, suggestions, recommendations given	Acted upon Ombudsman's interventions	All legal competences taken by Ombudsman	Not acted upon Ombudsman's interventions					
Non-discrimination and adequate and equitable representation	6	6	9	15		10									10	5
Police proceedings and other Interior issues	347	358	211	558		265	10	158	133	8	17	3	1		416	142
Judiciary	824	887	99	923	1	742	12	74	70	2	2				827	96
Military persons and military conscripts	3	3	4	7		3	1								4	3
Social protection	126	127	58	184		64		87	79		8	3		1	143	41
Labour relations	365	397	109	474	3	320	15	79	63	11	5	3	2	1	412	62
Accommodation relations	85	95	30	115		73	2	25	10	15		1	1		100	15
Health protection	67	91	16	83		35	2	41	37		4	4	2	2	74	9
Pension and disability insurance	196	211	50	246		154	2	65	63		2				219	27
Education, science, culture and sport	51	55	14	65	1	33	1	23	22		1				57	8
Children's rights	88	94	23	111		69		23	23			4		3	92	19
Urbanism and civil engineering	202	224	48	250	2	172	17	24	12	2	10				205	45
Environment	19	20	3	22		14		4	4						18	4
Finances	73	75	0	73		51	1	18	18						70	3
Property and ownership relations	304	340	302	606		171	8	309	258	25	26	24	170		462	144
Consumers' rights	76	77	18	94		45	1	35	33		2			1	79	15
Other	197	211	45	242	4	166	6	25	23	2		1			201	41
TOTAL:	3029	3271	1039	4068	11	2387	78	965	848	65	77	43	176	8	3389	679

Table no.3

A REVIEW OF COMPLAINANTS REGARDING THEIR ETHNICITY PER FIELDS														
	FIELDS	Complaints submitted in 2006	Anonymous	Number of established cases on personal initiative	Number of complainants	ETHNICITY								others
						Macedonians	Albanians	Serbs	Roma	Macedonian-Muslims	Bosnians	Vlah	Turks	Not declared ethnicity
1	Nondiscrimination and adequate and equitable representation	6			6	3			1					2
2	Special Police activities	193		2	201	40	49		1				3	105
3	Civil conditions and other Interior affairs	154			155	8	106	5	3		5		1	27
4	Judiciary	824	1	2	884	229	72	7	6	1	1	1	16	544
5	Military persons and military conscripts	3			3									3
6	Social security and protection	126			127	38	14	1	7		2		2	63
7	Labour relations	365	3		394	95	49	3	3		2	1	2	235
8	Accommodation issues	85			95	42	2		4				2	45
9	Health protection	67		1	90	13	5		2			1	2	67
10	Pension and disability insurance	196			211	62	39	2	1		1	1	4	99
11	Education, science, culture and sport	51	1		54	15	7							32
12	Children's rights	88		3	91	34	3		1				1	51
13	Urban and civil engineering rights	202	2		222	65	17	3					5	132
14	Environment	19			20	5	2						1	12
15	Finances	73			75	34	5		1				2	32
17	Property and ownership relations	304			340	110	29	1	4		1	2	8	182
18	Consumers' rights	76			77	26	10	1					1	39
19	Other	197	4		207	45	14	2	2			5	1	136
20	TOTAL:	3029	11	8	3252	864	423	25	36	1	12	11	51	1806

In terms of place of residence, the greatest number of complainants is from Skopje – 1076, followed by complainants from: Bitola, Kicevo, Kumanovo, Tetovo and other major urban areas.

Table no.4

REVIEW OF SUBMITTED COMPLAINTS PER CITIES AND COUNTRIES OF FOREIGN SUBMITTERS					
	2006 year.	2007 year.		2006 year.	2007 year.
Berovo	16	11	Ohrid	41	116
Bitola	277	297	Pehcevo	2	
Bogdanci	1	2	Prilep	78	92
Valandovo	7	9	Probistip	20	6
Veles	57	60	Radovis	54	48
Vinica	13	7	Resen	9	7
Debar	10	14	Skopje	1169	1076
Delcevo	18	21	Struga	38	53
Demir Hisar	22	17	Strumica	153	109
Demir Kapija	1	2	Sveti Nikole	10	13
Dojran	3		Tetovo	170	175
Gevgelija	33	43	Stip	137	115
Gostivar	80	97	Austria	2	
Zletovo	1		England	1	
Kavadarci	29	53	Germany	3	3
Kicevo	135	219	Italy	2	
Kocani	34	23	Kosovo	8	8
Kratovo	11	16	Montenegro		1
Kr.Palanka	29	24	Bulgaria	2	1
Krusevo	13	8	Croatia	1	
Kumanovo	349	235	Serbia	3	2
M.Kamenica	6		USA		1
Mak.Brod	14	19	Turkey	1	
Mavrovo		3	Sweden		1
Negotino	13	22			
TOTAL				3076	3029

82,15 %
inquiries
conducted by the
Ombudsman

Acting upon complaints

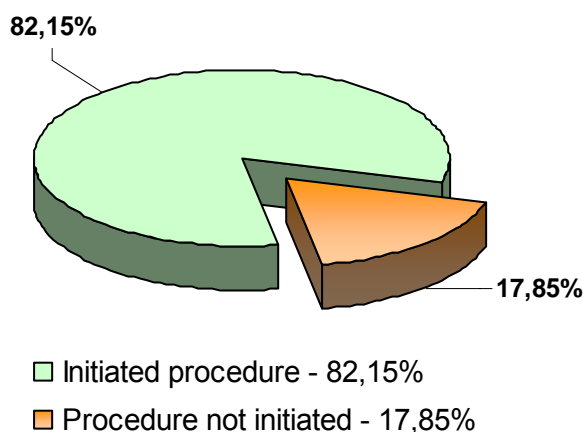
Immediate actions were undertaken for complaints which did not require additional researches. In case additional explanations were necessary, requests to the bodies in charge or to the complainants were addressed. In certain cases an insight was conducted and officials and other persons were invited for a discussion.

The procedure was completed for 3389 or 83, 31% of complaints out of 4086, while 679 or 16, 69% are in progress. **(Picture no.2)**

Out of 3389 completed complaints, the procedure was stopped for 1661 or 49,01%, no procedure was initiated for 726 or 21,42% of complaints, for 848 or 25,02% of complaints an action was undertaken after the Ombudsman had ascertained violations of constitutional and legal rights of citizens. In 65 or 1,92% the Ombudsman undertook all possible legal activities, 78 or 2,30% of complaints were solved in other manners and 11 or 0,33% of complaints were completed without taking any activities because the complainants were anonymous. **(Picture no.3)**

For 965 complaints for which the Ombudsman found violations of constitutional and legal freedoms and rights, in 848 or 87,88% actions were undertaken after the Ombudsman's interventions, for 77 or 7,98% of cases no actions have still been undertaken after the Ombudsman's interventions, and for 65 complaints or 6,78% of the cases the Ombudsman undertook all legal competences.

Graph No.1-2007



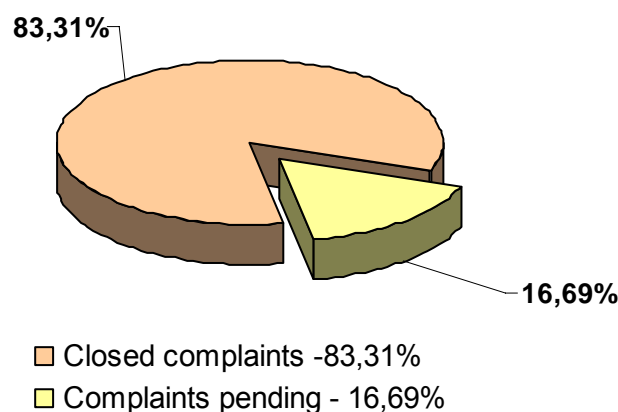
In 2007 the Ombudsman acted upon 3.342 or 82,15% out of a total of 4.068 complaints; for 726 or 17,85% of complaints no activities were undertaken. As a result of this number of complaints no activities were undertaken for, the Ombudsman finds that there are still citizens who have insufficient knowledge of the Ombudsman's competences (Picture no.1). Out of a total of 3.342 complaints for which the Ombudsman initiated a procedure, 2.663 or 79,68% have been completed, and for 679 or 20,32% of cases the procedure is

still in progress.

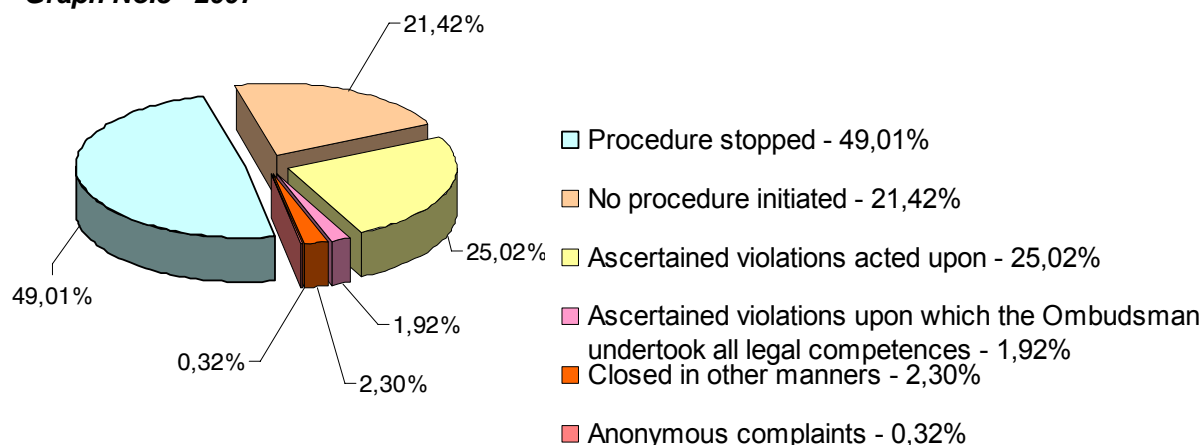
The cases still in progress, i.e. in a research phase are due to the complexity of the problem or the necessity for gathering further information or evidence from various bodies and organizations; it is, however a result of untimely submission of replies to the Ombudsman's requests.

Although the Law on Ombudsman stipulates mandatory time frames for the competent bodies to respond to the Ombudsman's requests, unfortunately most frequently they are not obeyed, and it should be pointed out that the long duration of the procedure by the Ombudsman was due to the formal acting

Graph No.2-2007



Graph No.3 - 2007

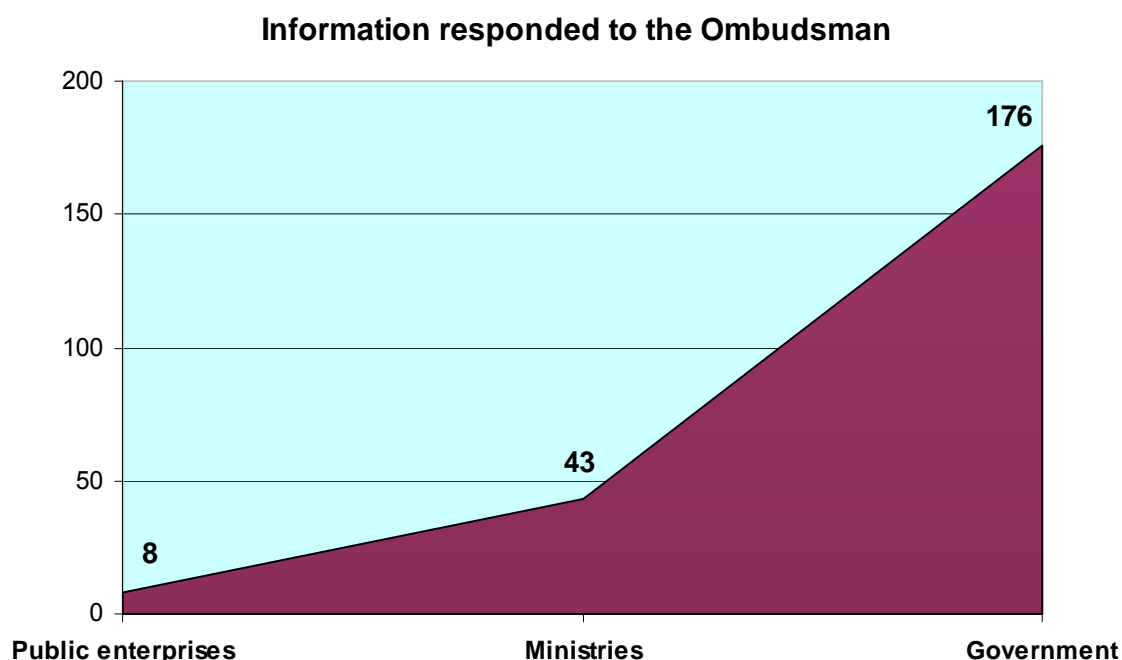


by certain civil administration bodies upon requests by the Ombudsman.

What can be confirmed as a result of the practice is that, even though the attitude of the officials towards the Ombudsman's request is improving, the necessary level of communication has not been reached yet. In order to make the procedure more accurate and to improve the conditions, 8 pieces of information, 4 of which were accepted, were directed to the bodies and organizations with public mandates, 43 to the Ministries in charge, 14 of which were accepted, and 176 were sent to the Government of the Republic of Macedonia, 122 of which were acted upon.

During 2006, the practice of sending information to the General Secretariat of the Government of the Republic of Macedonia every three months continued. The information was related to the number and type of requests by the Ombudsman to the bodies within the Government of the Republic of Macedonia and the ministries. This contributed to acceleration of certain procedures at the Ombudsman; however, the level of collaboration needs further improvements.

Graph No.5



23,72 %
Ascertained
violations

**Ascertained violations and
measures undertaken**

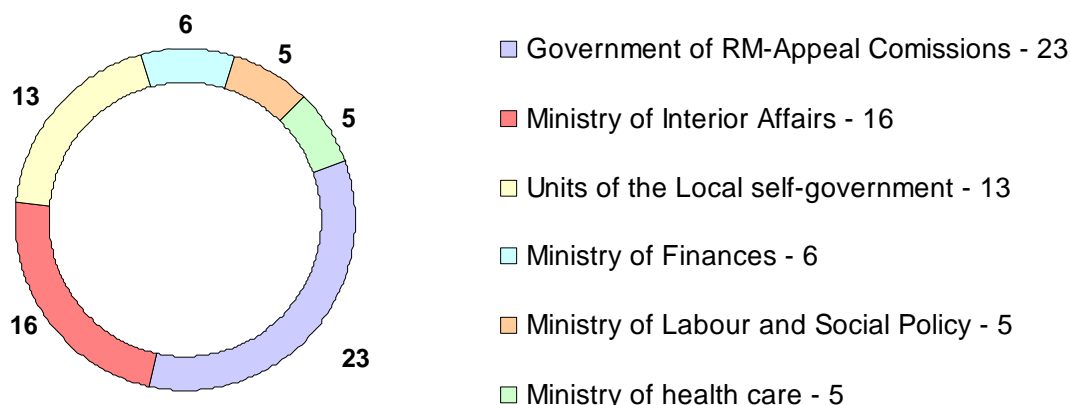
After receiving the complaints and inquiring them, in case violations of constitutional and legal rights of the citizens were found, the Ombudsman requested from the competent bodies through recommendations, opinions, suggestions, implications, requests, proposals and other similar forms to eliminate the irregularities and illegal actions, so that the citizens could practice their rights more efficiently and in a more economic manner. In this regard, the

Ombudsman directed its interventions towards improvement and progress of the organization and performance of professional sectors within the state administration bodies and other bodies and organizations with public mandates.

Out of the total number of cases the Ombudsman reacted upon in 2007, in 965 of them violation of constitutional and legal rights of citizens was found. In 848 cases (87,88%) the public administration bodies, other bodies and organizations with public mandates acted upon the Ombudsman's interventions, for 77 cases (7,98%) the procedure is still in progress, and in 65 cases (6,76%) the Ombudsman undertook all legal actions.

The greatest number of violations found in 2007 was in the field of property and ownership relations, 309 or 32,92% and for 258 or 16,37% of them the bodies and organizations with public mandates acted upon the Ombudsman's interventions. They are followed by cases in the field of police procedures, the most numerous ones being complaints procedures for gaining citizenship, where 158 cases or 16,37% showed violations, for 133 or 84,18% of which the Ombudsman's interventions were accepted. In the area of social rights, violations were found in 87 or 9,02% of complaints for 79 or 90,80% of which the recommendations were accepted, in the field of labour relations violations were found in 79 or 8,19% cases, 63 or 79,75% of which were solved according to the Ombudsman's recommendations etc.

Picture No.5 - Bodies which, in the largest number of cases have not acted upon the Ombudsman's interventions yet



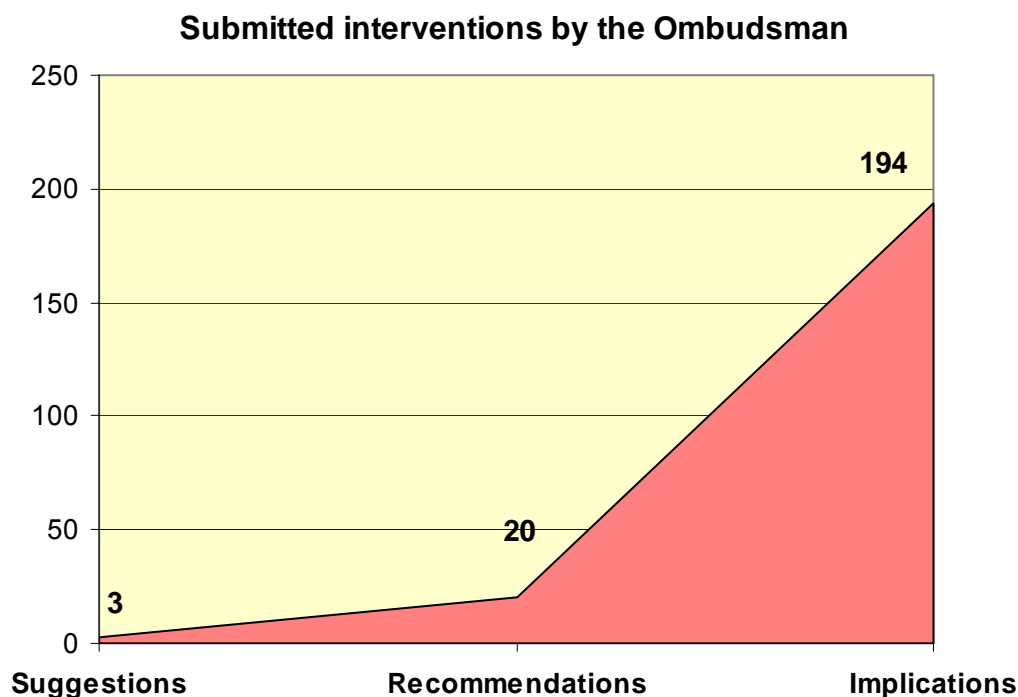
The greatest number of cases when the Ombudsman's opinion, suggestions and recommendations were disrespected, out of the total number of cases where violations were found, were performed by the appeal committees of the Government of the Republic of Macedonia, the Ministry of Interior Affairs, the Ministry of Labour and Social Policy, local government bodies, the Ministry of Finances etc.

The major number of citizens' rights violations found, as in the previous years, related to violations of legal and procedure provisions, meaning delay of procedures through which the citizens practice their rights. Out of the total number of violations found, almost 90% refer to delay of administrative procedures. In other terms, in more than 90% of cases, the bodies in charge did not respect the deadlines for reaching a decision upon citizens' requests, and in a significant part they abused the institute "silence of administration".

In order the violations found to be corrected, the Ombudsman addressed 217 interventions to the competent bodies as follows: 20 recommendations, 194 indications, 3

suggestions. Along with these, the Ombudsman submitted four requests to the Public Prosecution for conducting criminal liability procedure, one initiative to the corresponding Ministry for law amendments, one proposal for initiating a discipline procedure against persons in charge or officials at the bodies and organizations, one request to the Parliament of the Republic of Macedonia for authentic interpretation of a law, one special report to the Government of the Republic of Macedonia on obstruction of the Ombudsman's work and one request for a temporary execution of administrative acts.

Graph No.6



Over **4800**
Citizens accepted
for discussions

Citizens at the Ombudsman's Office

The Ombudsman's office in Skopje, as well as the regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip, practiced everyday reception of citizens, during which he, his deputies or the employees in the expert service accepted more than 4800 citizens for discussions. Consequently, in case there was a suspicion for violations of citizens' rights, official records were compiled on the basis of which actions were undertaken. In cases where the Ombudsman has no competences to intervene for certain citizens' problems, they were informed where and in what manner they could fulfil their rights.

The Ombudsman Office in Skopje in 2007 received the most complaints, 1921. The Ombudsman office in Kicevo received 308 complaints, in Bitola 276, in Kumanovo 209, in Tetovo 142, in Stip 96 and 77 complaints were received in the Strumica Regional Office.

REVIEW OF SUBMITTED CASES IN THE OMBUDSMAN OFFICES								
FIELDS	Complaints submitted to the Ombudsman Offices							
	Skopje	Bitola	Kicevo	Strumica	Tetovo	Stip	Kumanovo	TOTAL
Non-discrimination and adequate and equitable representation	3	1	1			1		6
Police procedures and other Interior affairs	184	21	30	8	28	9	67	347
Judiciary	514	84	105	17	45	31	28	824
Military persons and military conscripts	3							3
Social protection	78	12	8	2	8	3	15	126
Labour relations	255	44	32	3	9	7	15	365
Accommodation issues	67	7	3	1		3	4	85
Health protection	51	6	2	1	3	1	3	67
Pension and disability insurance	127	18	19	6	5	7	14	196
Education, science, culture and sport	41	3	1		1	1	4	51
Children's rights	66	8	4	1	2	4	3	88
Building Planning and Civil Engineering	106	21	32	18	8	5	12	202
Environment	10	4	1		1	1	2	19
Finances	44	3	15	2	4	1	4	73
Property and ownership relations	177	27	42	11	14	8	25	304
Consumers' rights	51	3	3	2	8	4	5	76
Other	144	14	10	5	6	10	8	197
TOTAL:	1921	276	308	77	142	96	209	3029

Situation with citizens' rights by fields

Non discrimination and appropriate and equitable representation

The Ombudsman, in accordance with the legal competences, pays special attention to protection and conduction of the constitutionally established principles of indiscrimination and appropriate and equitable representation in the state administration bodies, local self-government units and public institutions and services.

In order to confirm the conditions of appropriate and equitable representation of every community as well as gender equality, the Ombudsman in 2007 conducted data analysis, collected from the bodies. The Ombudsman acted upon them within its jurisdiction.



In reference with the above mentioned, the Ombudsman addressed: the President of the Republic of Macedonia, the Parliament of the Republic of Macedonia, the Constitutional Court of the Republic of Macedonia, the Judicial Council of the Republic of Macedonia, the Public Attorney of the Republic of Macedonia, the Government of the Republic of Macedonia, ministries, autonomous state bodies, funds, the Supreme Court of the Republic of Macedonia, the Administrative Court of the Republic of Macedonia, appeal and basic courts, Public Prosecutors Office of the Republic of Macedonia, second instance public prosecutors offices, basic public prosecutors offices, penitentiaries and detention centres, public enterprises, social welfare centres and local government units.

In view of conducting the constitutional principle of appropriate and equitable representation, the Ombudsman addressed the Government of the Republic of Macedonia – Secretariat for implementation of the Framework Agreement requesting information on activities undertaken within the competences of the Secretariat for implementation of the Framework Agreement in the report year, as well as information on the activities planned in this view. Hence, the Secretariat for implementation of the Framework Agreement informed the Ombudsman that in terms of the plans for appropriate and equitable representation of minor communities in the Republic of Macedonia, for 2008 the means from K-5 sub-program in the Budget of the Republic of Macedonia will be increased, which will result in increasing the number of employees who are members of minority communities in the Republic of Macedonia. That means there will be improvement of the overall conditions in terms of conducting this constitutional principle.



In January 2007, the Government of the Republic of Macedonia adopted the Appropriate and Equitable Representation of Minority Communities Strategy, and in June 2007 it adopted the Action Plan for conducting the Appropriate and Equitable Representation of Minority Communities Strategy.

Body	Employed - total	Gender representation		APPROPRIATE AND EQUITABLE REPRESENTATION							
		Female	Male	Macedonians	Albanians	Turks	Roma	Serbs	Vlah	Bosnians	other
President's Cabinet of RM – Expert department	29	17	12	26	2			1			
Parliament of RM-Expert Department	189	125	64	149	29	3	1	5			2
Constitutional Court of RM	21	18	3	18	2			1			
Ombudsman of RM	69	44	25	39	23	1	2	2	2		
Judicial Council of RM ¹	14	10	4	13	1						
Administrative Court of RM ²	18	11	7	13	5						
Supreme Court of RM	74	59	15	64	2	2		3	2		1
Public Prosecutor of RM	35	16	19	29	4				2		
Public Attorney of RM	88	63	25	81	4	1		2			
Government of RM-Secretariat General	142	82	60	100	33	1	1	2		4	
Government of RM-General Services Department	312	136	176	276	20	5	2	5	1	2	1
Government of RM-Framework Agreement Implementation Secretariat	211	56	155		199	4	6			1	1
Government of RM-Legislation Secretariat	25	16	9	17	5			1	1		1
Government of RM-Secretariat for European Integration	76	50	26	60	8	2	1		4		1
Ministry of Finance	544	331	213	458	71	2	1	7	2	3	
Ministry of Foreign Affairs	376	156	220	298	68	2	3	2	1		2
Ministry of Justice	603	249	354	466	102	17	2	6	6	2	2
Ministry of Health	202	126	76	138	54	2	1	4	1		2
Ministry of Defense	655	226	429	551	63	8	2	13	11	3	4
Ministry of Transport and Communications	198	88	110	150	42	1		4	1		
Ministry of Labour and Social Policy	308	180	128	240	43	1	4	7	9	3	1
Ministry of Economy	415	193	222	315	83	2		6	5	1	3

¹ Received data on the Judicial Council refer only to the Expert Department, taking into consideration that the procedure for appointing members has not been finalized.

² Administrative Court of RM started functioning near the end of the report year. Consequently, only the total number of judges, their nationality and gender structure are presented, where as data on the Expert Department are not included.

Ministry of Environment and Spatial Planning	115	64	51	80	17			5	1		2
Ministry of Local Self-government	37	19	18	18	16	1	1				1
Ministry of Education and Science	235	137	98	134	85	4	1	6	1	3	1
Ministry of Interior Affairs	12098	1741	10357	9754	1805	69	77	220		24	149
Ministry of Agriculture, Forestry and Water Economy	505	92	413	406	69	7	1	13	5		4
Independent State Bodies ³	6509	3033	3476	5653	574	47	18	98	51	18	31
Funds ⁴	1389	892	496	1194	135	2	6	26	19		6
Appellate Courts	203	129	74	181	10	1	2	1	6	2	
Basic Courts	2088	1216	872	1849	126	24	25	8	38	6	6
Higher Public Prosecution	52	33	19	46	4			2			
Basic Public Prosecution	271	161	110	244	20	4		2	1		
Penitentiaries and Detention Centres	520	97	413	434	59		1	5	10		1
Public Enterprises ⁵	8299	1653	6646	7075	688	136	67	175	59	36	65
Social Welfare Centres	551	372	178	425	81	9	9	9	8	3	7
Local Self-government Units ⁶	2845	1120	1725	2248	452	44	24	34	16	9	18
Public Health	17729	12798	4921	15212	1305	230	190	375	112	78	187

In the course of our work, referring to appropriate and equitable representation as a kind of positive discrimination during 2007, a certain number of complaints were received in which the complainants implied violations of labour rights as a result of inadequate obeying of the appropriate and equitable representation principle. The Ombudsman, acting upon these complaints, emphasized the necessity of adequate obeying of this principle and its affirmation, i.e. the need for a maximum engagement on behalf of the competent institutions in direction of consistent respect and implementation of constitutional and legal provisions, which secure the rights of minorities' members. The reason for this is the fact that in certain institutions, apart from the efforts made for conducting the principle of appropriate and equitable representation of the members of all communities, the level achieved is still not satisfactory.

During this report year, the Ombudsman received a small number of complaints in the field of discrimination. The small number of complaints in which the citizens claimed deprivation of certain rights, meaning they were not able to realize certain rights, does not represent the real picture in terms of discrimination, i.e. it should not lead to a wrong conclusion that in the Republic of Macedonia there is no discrimination. On the contrary, discrimination exists and it is one of the cruellest manners of limitation the possibility of

³ Required data was not submitted by the Securities Commission and the Spatial Planning Agency of RM

⁴ Required data was not submitted by the Deposit Insurance Fund

⁵ Requested data was not submitted by the PE for stock exchange trading "AGRO-BERZA" Skopje, and incomplete data was submitted by the PE for water supply "Dojransko Ezero" Star Dojran. Requests addressed to PE for supply, transport and distribution of natural gas "GA-MA" Skopje returned marked "Unknown"

⁶ Requested data was not submitted by the following municipalities: Staro Nagoricani, Vraneshtica, Zalenikovo and the City of Skopje

practicing human rights. However, citizens rarely declare this problem publicly which is a result of either fear or lack of information, which is reflected in the small number of complaints submitted to the Ombudsman in this field.

The difficulty for identifying and expressing discrimination publicly derives mainly from the non-existence of appropriate legislation on this issue. In everyday life, cases of discriminatory behaviour appear, but the attempt to ascertain discrimination remains unsuccessful since there is no separate law on discrimination prohibition, there are only provisions for discrimination prohibition scattered through several separate laws which are not precise enough and do not represent a consistent unit. The lack of legislation is an obstacle for persistent realization of citizens' rights. Because of that, the Ombudsman implied the need for passing legislation on non discrimination and creation of efficient protection tools to the Parliament in the previously submitted reports as well.

In this respect, the Ombudsman, during last year, participated actively in the project "Promotion of anti-discrimination concept in the country", implemented by the association Polio Plus, supported by the Monitoring Mission of OSCE to Skopje. The coordination body, which consisted of governmental and non-governmental institutions, along with the Ombudsman, worked on developing the anti-discrimination concept, promoting anti-discrimination legislation, as well as initiating an institutional framework for support of human rights. Several round tables were held and various information was exchanged, which brought to preparation of an open document – Strategic Framework Proposal for mutual action against discrimination in Macedonia.

Although the Republic of Macedonia has ratified several international legal instruments, the fact that a systematic Law on Discrimination Protection has not been passed yet, and the fact that this issue has not been regulated or clearly regulated in the existing law provisions is a special problem because it is an indisputable fact that discrimination exists in every sphere of social life and presents a problem generally faced by every country in the world, including the Republic of Macedonia.

Special Police Authorizations

Passing the Law on Police at the end of 2006 and the initiation of its implementation in 2007 is a step forward in terms of organization and functioning of the Ministry of Interior Affairs.

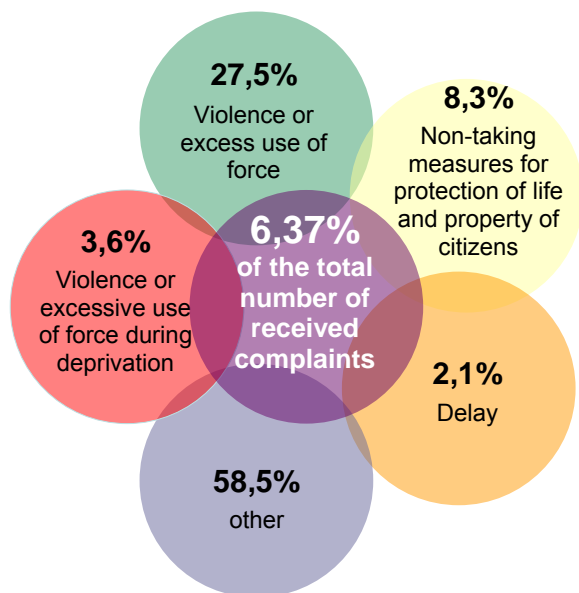
By performing police duties in accordance with the Law, Police had to alter from an enforcement instrument to a real service which should provide protection and respect of basic human and citizens' rights guaranteed by the constitution, laws and ratified international agreements; as well as protection of the legal frames, prevention, detection and prosecution of perpetrators of criminal offences and maintenance of public peace and order in the society.

The general impression is that efforts were made especially in the Police part in order to implement the planned reforms. Thus, certain by-laws were passed, the one of major importance being the Regulations on performing police activities.

Training sessions were also organized on respecting the Police Etiquette Codex, and at the same time on elevating the professional behaviour of police officials on a higher level, especially while applying police authorizations.



The Ombudsman contributed to the round tables organized in this respect and utilized the opportunity given to emphasize the necessary need for a more constructive collaboration between Police and this institution through personal suggestions and opinions. It was underlined that providing direct insight in police documentation, timely and complete actions upon submitted requests and transferring the evidence and information required is of special importance so that the procedure can be conducted efficiently, effectively and without any delays.



As a result of the round tables, at which the Ombudsman's views were approved by the Internal Control and Professional Standards Department and because of the necessity for preparation of special Government reports on the obligation for collaboration with the Ombudsman, a progress in the formal communication was achieved. However, the Ombudsman believes that the objective has not been reached yet, since crucial collaboration lacks (wider and more advanced investigations, informing the institution in more details etc.) which means that there is space for a more productive collaboration between the Ministry of Interior Affairs and the Ombudsman. An example of what the crucial collaboration should be like is the quick and efficient action undertaken by

the Internal Control Department, upon the Ombudsman's request, for clarifying the case when the members of the special Police unit for fight against crime – ALFI, by practicing physical force on a TV channel cameraman violated the freedom of informing the public.

Statistical data show that in this report year, compared with the previous one, insignificantly smaller number of complaints refereeing to acts, activities or non committing actions by the Police was submitted. A smaller number of them refer to activities of a violent kind as a result of physical force and forcing methods used by police officials, and the majority of them refer to various acts and activities of non-violent kind which still, resulted in violation of basic freedoms and rights of the complainants.

As a result of the inquiries conducted and the violations of human rights ascertained with elements of punishing offences, the Ombudsman submitted reports on criminal activities violating human and citizens' rights and freedoms, against police officials to the authorized public prosecutor on several cases. They were all accepted and processed by an authorized investigative judge, and in one of the cases a procedure for violation of working discipline was initiated. An alarming fact is that the Internal Control and Professional Standards Sector informed the Ombudsman that no liability by the police officials was ascertained and confirmed in the course of performing police duties.

Besides this, as a result of ascertained weaknesses in the functioning of the bodies within the Police and the Internal Control and Professional Standards Sector, especially in regard to internal investigations, the Ombudsman submitted information and several implications to the Minister of Interior Affairs and the Control and Professional Standards Sector.

In this report year, although the formal communication was improved, some events related to police work and police procedures caused certain reactions which confirmed the

already mentioned opinion of the Ombudsman that quick, objective and effective investigation lacks.

During this report year, there were cases of violating the constitutional and legal principle of presumption of innocence, guaranteed by the European Convention for Protection of Human Rights and Fundamental Freedoms, as well.

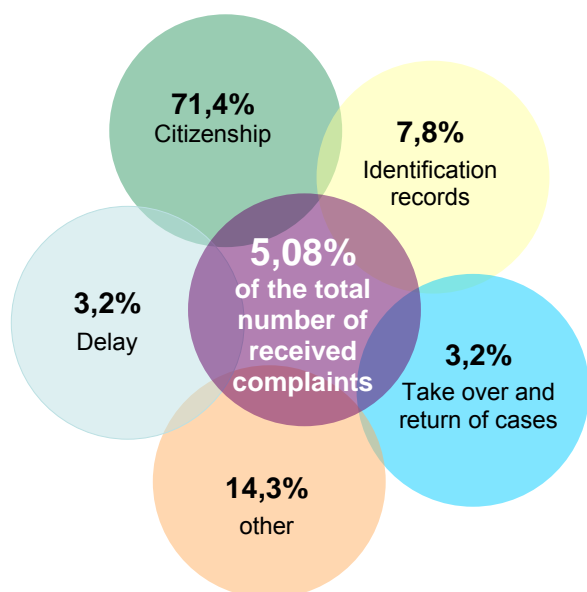
The police action conducted in the village of Brodec on Shara Mountain left room and suspicion that the Police exceeded its power. The fact that a number of family members, concerned about the destiny of their beloved ones, sought intervention by the Ombudsman adds to this opinion.

In order to clarify this case, the Ombudsman conducted a voluminous inquiry. After that, the Ombudsman considered that there was a need, in accordance with article 30, paragraph 1, lines 4 and 5 of the Law on Public Prosecution, for submitting the complete gathered documentation during the course of the inquiry to the Basic Public Prosecution in Skopje for their estimation and further proceedings.

Regarding the Brodec case, the Ombudsman, among other issues, prepared detailed information on actions and measures undertaken and submitted it to the Parliament of the Republic of Macedonia – Permanent Survey Committee for protection of citizens' rights and freedoms.

These negative examples in which the Police is involved, i.e. because of the nature of job responsibility mostly members of Special Police Unit for fight against crime and members of the Unit for Rapid Deployment, indicate that education of police officials should be a continuous and permanent progress which should lead to adoption of good police standards and practice of the European police systems (institutions), which would further on take us to higher standards in terms of respecting fundamental freedoms and rights.

Civil state and other interior issues



Civil states are of essential importance for the personal and social status of each citizen of the Republic, as well as for the status of persons requesting the state to recognize some of the guaranteed rights or freedoms, recognized by international legal instruments and mechanisms.

The Ombudsman permanently monitors the procedures for realization of the stated fundamental freedoms and rights of citizens such as: solving issues related to citizenship status, place of residence and stay, record keeping, taking and returning objects and every other delayed procedure, as alleged by citizens who had previously addressed the Ministry of Interior Affairs or other state bodies with public mandates.

Having in mind that citizenship is a “right to other rights”, the number of complaints and the result achieved by the Ombudsman in this report year regarding the cases in the field of gaining citizenship should be indicated.

Compared with last year, the number of complaints significantly decreased as a result of the transitional provision of the Law on Citizenship for citizens of other Republics in the former SFRY with residence in the Republic of Macedonia at the moment of its constituting into an autonomous and independent country.

Since the application of this provision seized, and there is a great number of persons who were born in this state and have another citizenship based on the origin of their parents, the Ombudsman requested from the Government of the Republic of Macedonia to submit an initiative for amendments to the Law on Citizenship and facilitation of the conditions for accepting the citizens from the former SFRY, who remained in the Republic after its succession with permanent (factual and legal) relations. This commitment was based on the already applied term a “solid and effective connection” with the state (article 6 of the Law on Modification and Amendment of the Law on Citizenship), as a benefit basis for gaining the requested citizenship.



In terms of the established legal prerequisite for an applicant to have sufficient knowledge of the Macedonian language in order to communicate easily by the Special Commission of the Government of the Republic of Macedonia, the Ombudsman finds the fulfilment of this condition may represent a real obstacle for gaining citizenship for a certain group of applicants. The Ombudsman submitted an implication to the President and the Secretary General of the Government of the Republic of Macedonia about the manner of application of the legal phrase and about the Committee for confirming the prerequisite – knowledge of the Macedonian language, which should be based on the approach which protects the fundamental rights and freedoms and eliminates discrimination of applicants on language basis, because applicants on the basis of marriage with another Macedonian citizen are free from fulfilling this prerequisite.

Regarding the procedure itself at the Ministry of Interior Affairs, the Ombudsman office realizes everyday contact on separate cases with the Citizenship Department at the Administrative –Monitoring issues, and it can be stated that the collaboration with this body is on a very high level.

In certain cases the Ombudsman implied to the citizenship issuing body that it should estimate the applicants' citizenship status in accordance with another article of the Law on Citizenship, not according to the one the applicants requested, by official competence, because domestic and international legal instruments stipulate taking measures which will decrease the number of persons without citizenship.

As a result of its activities, the Ombudsman found that the procedure for gaining citizenship have an increased number of positive solutions; however the procedure duration and the number of people applying for relinquishment of nationality or double citizenship is still worrying.

Referring to regulation of other civil issues at the Ministry of Interior Affairs, the Ombudsman reminded the bodies involved of their responsibility to adhere to the basic principles of the Law on General Administrative Procedure, their service orientation, efficiency and responsibility towards citizens, as well as the commonly accepted standards for good administrative conduct. In this direction, the Ombudsman welcomes all activities of the Government of the Republic of Macedonia for introducing the so called “regulatory guillotine: in the field of solving the everyday needs of the citizens for their status and administrative conditions.

The Ombudsman finds that the Republic of Macedonia does not follow the European experiences for registration of residence/seat of citizens (domestic and foreign) because evidence for the place they reside/live is requested, and the body for interior affairs is unnecessarily burdened with conducting administrative and offence procedures, that violate the freedom of movement and settlement of citizens.

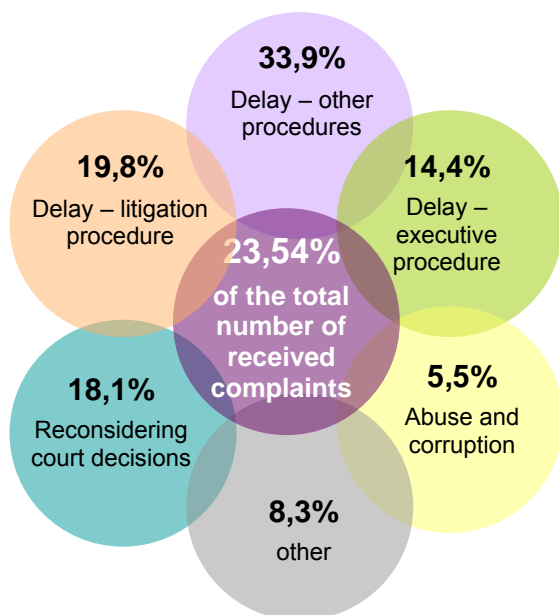
At the same time, the introduction of the concept for the so called “biometrical” public documents (passports, ID cards, driving licences) significantly prolongs the procedure for their issuance; the negative consequences of which are borne by the citizens. In that sense, the Government should undertake necessary technical and personnel measures to overcome this condition.

In order to adjust domestic with the European legislative and to ensure the right of free expression of religious entity, the Ombudsman submitted an initiative for altering the manner of photographing the citizens who have a tradition and a need to express their religious identity with a certain cover on their heads to the Government and the Constitutional Court.

Judiciary

The reform of the judiciary system which was in progress for a long period of time represented one of the basic conditions implied to the Republic of Macedonia by the international community for its full membership in the EU and NATO.

Finally, during 2007 the reform process, at least the part referring to the organizational structure of the judicial system, accompanied by all difficulties during the process, gained its shape with the establishment of the Judicial Council of the Republic of Macedonia and by the initiation of the functioning of the Administrative Court in Skopje and the Appellate Court in Gostivar.



With this and further on, by implementing the legal provisions from the Law on Courts, that determine the material and local jurisdiction of the basic courts, as well as by passing the Law on Public Prosecution, initiation of the work of executors, mediators and by transferring additional competences to the notaries, conditions for eliminating the burden from the judicial function holders for undisputable cases and their devotion to cases with disputable character were created.

However, the judicial authority was left with the competence to control the acts and activities of newly formed public services where the citizens realize legal interests, especially connected with execution of final court decisions.

With the new organizational structure of the judicial system, which resulted from the long-term reform process, it is certain that the accumulated problems connected with the long duration of judicial procedures will not disappear over night but, parallel with the changes in the process legislation, they should represent a good starting point for a better guaranty for obeying and realizing the right for trial in a reasonable time frame, guaranteed by article 6 of the European Convention for Protection of Human Rights and Fundamental freedoms.

Passing laws on public prosecution and public prosecutors council, the expectation of the basic courts to finally stop acting upon executive cases at the end of the year, the termination of the Supreme Court of the Republic of Macedonia in acting upon cases in the field of administrative procedure and the transfer of cases among basic courts according to the modified legal competences, during 2007 were additional reasons for complicated realization of constitutional and legal rights of the citizens in front of the judicial bodies, as a result of which they addressed the Ombudsman.

During the year, as a result of various reasons, the Ombudsman received a total of 823 complaints against judicial officials, public prosecutors, lawyers, notaries and executors; there were also complaints referring to the work of the Ministry of Justice, the Public Attorney and the Judicial Council of the Republic of Macedonia.

The majority of complaints refer to the judicial officials in the basic courts for delaying court proceedings, executive, criminal and bankruptcy procedures, then for delaying the appeal procedure before the Appellate Court and for delaying procedures of administrative cases before the Supreme Court of the Republic of Macedonia. They are followed by complaints for delaying the procedure by public prosecutors, the Public Attorney, and a significant number of complaints where the complainants requested a repeated estimation or evaluation of court decisions, declaring corruption of judicial institutions and requesting activities which are not within the competences of the Ombudsman.

According to the legal competences, a great number of the complaints was rejected because of not ascertained violation according to article 6 of the European Convention for Protection of Human Rights and Fundamental Freedoms, i.e. it was not ascertained that the delay in the procedure was due to subjective reasons, and the others were rejected because of the incompetence of the Ombudsman.

The relatively small number of cases in which the Ombudsman ascertained violation of the postulate for a trial in a reasonable time frame, in comparison with the number of not registered complaints is certainly not an exact indicator of the real conditions.

On the contrary, the Ombudsman considers that in 2007, the parties in judicial procedures faced big difficulties in order to realize their status, personal, property and other interests efficiently and quickly.

Once again, the insufficient monitoring of the procedure course by the judges and public prosecutors was registered, which is one of the more serious reasons for unjustified delay of judicial procedures and the procedure before public prosecution.

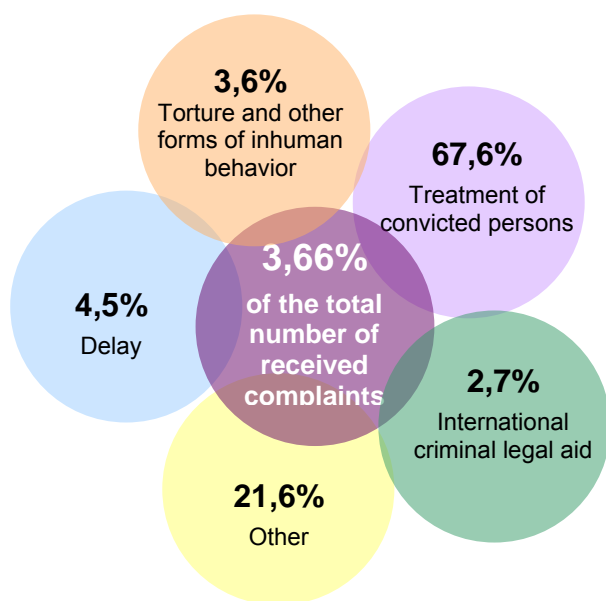
There were also certain problems for the parties resulting from transfer of cases, especially in the two basic courts in Skopje.

However, the responsibility can not be transferred only to the court or other judicial officials; the rest of the institutions of the system responsible for creating necessary normative, material, personnel and other prerequisites for a more efficient judicial system contributed to this situation to a great extent.

Since the course of the long-term reform has created the basic conditions for a more effective judicial system, what remains is for the judicial officials to monitor permanently and to apply the legislation coherently in the area of material and process legislative, to apply the

accepted international legal acts, to monitor and apply the judicial practice in the European Court for Human Rights and to show and prove that they have not always been the only ones to blame for the long-term and inefficient judicial procedures, and for the violation of the principle of a trial in a reasonable timeframe.

Penitentiaries and detention centres



The Ombudsman follows the conditions with respect and protection of constitutional and legal rights of persons in bodies, organizations and institutions with restricted freedom of movement, especially for the arrested, detained, and convicted persons in a penitentiary or a detention centre.

During 2007, the Ombudsman acting upon cases in this field managed to assist the complainants in fulfilling their rights.

Of the total number of complaints, the majority referred to the treatment of convicted persons in prisons, and for a part of them the Ombudsman confirmed the conditions on the spot.

It was affirmed that no violation of rights happened but, the complaint represented a request for more favourable conditions and the Ombudsman has no authority to act upon these issues. They are under authorized officials' jurisdiction at the penitentiaries, primarily the manager, in accordance with the prison rules. However, the Ombudsman implied to the obligation the Sanctions Execution Bureau at the Ministry of Justice has for appropriate application of the provisions of the Law on Execution of Sanctions in terms of realization of rights and use of favourable conditions the prisoners have the right to.

Having in mind the general conditions in terms of accommodation capacities and the premises, which are guaranteed rights of prisoners, the Ombudsman found that the penitentiary system in the Republic of Macedonia, generally, does not function in compliance with the standards stated in the Law on Execution of Sanctions and the international standards. The similar can be said about the realization of legal conditions of convicted persons.

Namely, although in the normative respect execution of sanctions is based on principles of human, moral values, rightfulness and respect of a human and his dignity, in practice, the competent institutions in charge for conducting the law seem to have forgotten this category of citizens, by not taking proper care for realization of their freedoms and rights.



The conditions and the situation in terms of accommodating convicted persons in penitentiaries are worrying. It is obvious that insufficient funds are allocated for the improvement of conditions for the detained and convicted persons' stay. Although there has been an announcement for investment activities in certain penitentiaries, it is a fact that there is a continuous overload, insufficient heating and inappropriate lighting of premises.

The condition with the personnel in the penitentiaries is not satisfactory, an organized form of training for the staff in the penitentiaries lacks, although article 67 of the Law on Execution of Sanctions stipulates foundation of a training centre within the frames of Sanctions Execution Bureau. The insufficient professionalism creates an atmosphere of uncertainty with the employees, and at the same time, it is an obstacle for a successful treatment as a fundamental part of the process of re-socialization of convicted persons.

A general view is that in the majority of penitentiaries, the convicted persons serve their sentence in inhumane conditions, under the level of human dignity, which are contrary to the penological standards for modern conditions for their stay, appropriate hygiene conditions and health protection for this category of citizens.

The communication with the outside world (telephoning, receiving and sending letters etc.) is on an unsatisfactory level, limited to the afternoon hours only, according to the rules of the institution. In this respect, the practice in the penitentiary Idrizovo and in the closed wings in the institutions of semi-closed type is worrying – the letters addressed to and from prisoners are read by the officials, which violates the guaranteed right of privacy for the convicted persons. In terms of submitting letters and requests, it is a general impression that they are submitted to the authorized bodies in a controlled manner, as well as the writs.

The convicted persons do not have enough possibilities for recreational activities which are important for their physical and mental health, since the sports and leisure activities are kept on a minimum level as a result of insufficient sports equipment and technical aids, as well as because of the indolent attitude of the officials for organizing appropriate activities.

In the past period, the realization of monitoring function by the inspectors for execution of sanctions and the court lacked, so besides sporadic and ad hoc visits by the European Committee for Torture Prevention, after appointing the new competence to the Ombudsman, only this institution has been conducting regular visits to the penitentiaries.

Performing the function in terms of protection of convicted and detained persons' rights, the Ombudsman highlights the case of detaining persons from the village of Brodec*, as a specific one. In this respect, having in mind the principle of humanity, as well as the concern of the relatives about the destiny and health conditions of arrested persons, the life and health of those people were of utmost importance for the Ombudsman. For this reason, teams were immediately sent to health centres and penitentiaries in order to ascertain the conditions and take measures for protection of their rights. After undertaking measures and ascertaining the conditions, the Ombudsman implied and recommended the competent institutions to respect the rights of the arrested persons imperatively and in any aspect, especially the right to health protection. The Ombudsman continued following the conditions in terms of respecting their rights, and informed the families, the Board of the village of Brodec and the public on the conducted procedure and activities.

This kind of preventive role was played by the Ombudsman as a prerequisite for realization of confined persons' rights in the case on its own initiative, referring to the strike organized by a group of convicted persons in the penitentiary Idrizovo.

Although the reason for the strike was not in the competences domain, the Ombudsman implied to the prison officials their responsibility for respecting the rights of

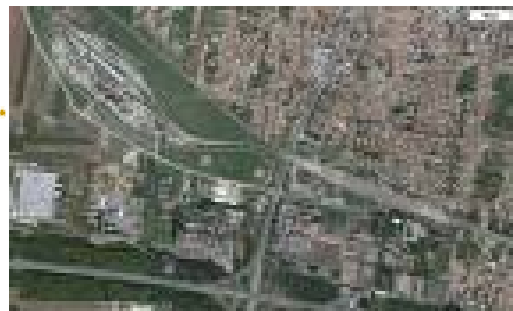
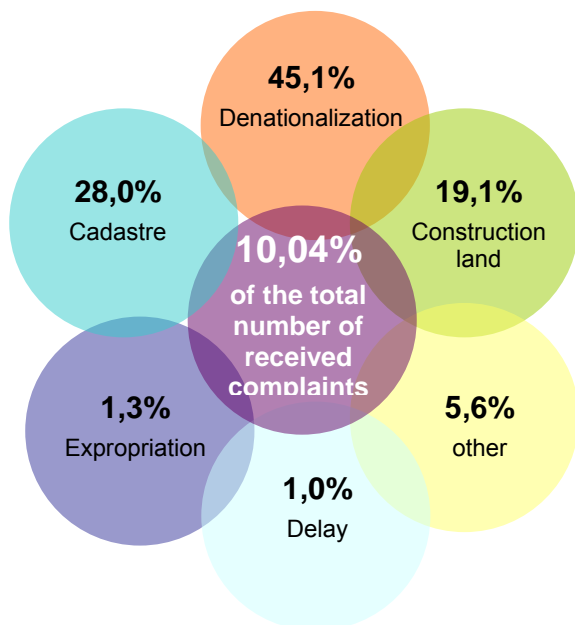
* Information on Brodec case can be found on the Ombudsman website

convicted persons, especially emphasizing the need for undisturbed realization of health protection rights and communication with the outside world, meaning the right to visits, the right to receive letters and packages etc.

The Ombudsman, within its competences, along with the rest of the activities related to monitoring of the realization of convicted persons' rights, in the period May-July 2007 visited the penitentiaries and detention centres in the Republic in order to evaluate the conditions in terms of respecting the right to health protection for the convicted and detained persons, as well as to the minors in the penitentiaries. Based on the factual conditions established during performed insights, the Ombudsman prepared a separate report* and submitted it to the Ministry of Justice – Department for Execution of Sanctions.

In this report year, in cooperation with and fully supported by the OSCE in the Republic of Macedonia, in the period September – October the Ombudsman conducted the Program for Visiting the Penitentiaries in order to present the brochure "The Ombudsman in Protection of Prisoners' Rights". During its course, leaflets and posters in Macedonian, Albanian and Roma languages were distributed. Within the frames of this program, metal boxes for complaints, remarks and requests were installed, and they can be opened only by the Ombudsman officials. The reason for installing the mail boxes for the Ombudsman is the complaints by the convicted persons that their complaints and requests do not reach the addressed subject, meaning the competent bodies, which was estimated by the Ombudsman in the previous period.

Property – Legal Relations



In terms of protection of complainants' property-legal rights, based on the conditions analysis in 2007, a general conclusion can be made: the bodies competent for acting upon these procedures continue the long term trend of non-taking any activities requested by the Ombudsman.

At the same time, there is presence of replies by the Second instance Commission for deciding in administrative procedure in the field of decentralization, which state that the reasons are objective circumstances, that the Ombudsman intentionally overreacts and that its

suggestions would represent injustice towards citizens who have not submitted complaints. A seriously concerning fact is that there is no elementary knowledge of the legislation, unfortunately by persons who are the most responsible ones for knowing it, since they

* Report and brochure can be found on the Ombudsman website

practice it directly. Thus, instead of acting upon implications and recommendations by the Ombudsman, there is a situation of implying and noting an institution, established by the Constitution to control the administration, which transforms the controlled subject into a controlling one. This is a classical example of malfunctioning of the administration, in a situation when the following issues are indisputable, i.e. they must not be brought under suspicion:

- The Ombudsman has an obligation, i.e. it is responsible for acting upon citizens' complaints;
- According to its authorizations, the Ombudsman may give an opinion, recommendation, proposal, implication or request for repeating of a procedure, after ascertaining violation of complainant's rights or other irregularities;
- Bodies are obliged to inform the Ombudsman on measures undertaken upon its requests, proposals, opinions, recommendations or implications within the time limits set by the Ombudsman, not longer than 30 days after receiving it, and it is not their responsibility to estimate the usefulness and justification for the Ombudsman's interventions, meaning they should not enter any unjustified or unreasonable estimation of the Ombudsman's work.

The above mentioned bureaucratic behaviour leads to encumbering the Ombudsman's work, impeding the realization of citizens' rights and a complete uncertainty in terms of property rights, which on the other hand, disturbs the economic development of the state in general.

Thus, in regard with the general condition concerning protection of citizens' rights in the field of property-legal relations (denationalization, construction land rights and the Cadastre) it should be emphasized that although a long period of time has passed in which the Ombudsman institution was established and has been functioning, certain bodies do not understand or do not want to understand the role and importance the Ombudsman has in a democratic society which is that the functioning of this institution is of state and its bodies interest .

Actually, it should not even be mentioned that the basic criterion for enlarging democracy and its directing is the level of protection, securing and respecting human rights and freedoms in practice, and the essence of the Ombudsman's work is implying to their violation.

Still, the Government's noticeable tendency in 2007 to make certain steps in overcoming the overtaken situation must be highlighted. This mainly by creating assumption for coherent respect of corresponding legal timeframes in deciding at second instance (upon an appeal or some of the other additional legal means), by undertaking activities for implementing corresponding application of the principle for solving cases in the order of their receiving, as well as passing formal conclusions which direct bodies and organizations to cooperate with the Ombudsman.

At this point, it should be accented that a complete realization of the initiative lacks, since the tasks given were expected to be fulfilled only by enlarging the number of commissions for administrative issues at second instance's members and without determining the dynamics for the enlarged scope of work. Because of this, the Ombudsman must imply that in no case agrees that the newly created situation is a result of objective reasons, besides their undoubted influence and contribution which is never neglected by the Ombudsman.

However, it is obvious that there are still subjective weaknesses with elements of corruptive behaviour, and the basic characteristic of the commissions for administrative issues at second instance is a complete disorganization in their work from the moment of receiving of an appeal, along with the documents for the case, until final solution. This, on the

other hand results in loss of complete cases and no evidence at all, slow pace, meaning no closing of cases even after a few years, bureaucracy on a high level and great subjectivity in the process of administrative procedure. At the same time, there is no adherence and respect of a legally determined period for reaching a decision and the provisions are applied on unequal and selective basis.

The Ombudsman continuously implies and requests establishing a situation which would create a possibility for solving the piled cases in a reasonable time frame (dynamics of solving administrative cases should be in accordance with the unsolved ones) and would create a rule for the decision for every single appeal to be reached according to the time frame determined in the Law on General Administrative Procedure, i.e. it would create legal security for the citizens as an element of the constitutional principle of the rule of law and the constitutional principle of equality of the citizens before the Constitution and the laws.

It is important that even after forming the new personnel organization of the commissions, the situation has not been significantly improved because in the course of the report year there was relocating and solving cases upon appeals dating from 2004, 2005 and possibly 2006.

Besides this, it should be immediately expressed that in a democratic state it is impermissible during a whole year, as well as in the previous ones, to exist state bodies and institutions which do not act upon any of the Ombudsman's requests at all. Such bodies are:

1. Commission for administrative issues at second instance in the field of property-legal issues and construction land, which has submitted no reply at all,
2. Commission for administrative issues at second instance in the field of survey, cadastre and registration of real estate rights (which was also formed on 31.10.2006). In March 2007, there was a reply that a constitutive session was not held yet and that we would be informed on the work initiation "on time". At the same time, starting from June 2007, every three or four months the Ombudsman received information (replies) that a part of the cases had been closed (most often three or four of them), which is not a method of work that would create overcoming of the situation with the huge number of open cases.
3. Commission for administrative issues at second instance in the field of denationalization, which replied that the cases would be closed according to the order of receiving the cases upon appeal.
4. Commission for administrative issues at second instance in the field of denationalization at the Ministry of Finance, with HQ in the municipality of Gazi Baba, which besides not submitting any reply to the Ombudsman's interventions, has a completely ignorant, unprofessional and irresponsible attitude, which can also be said for the commissions for denationalization with HQ in the municipality of Kisela Voda and Ohrid.
5. Department for management and recording construction land at the Ministry of Transport and Communications, as a unique case of total non-cooperation and rejecting to take any measures for overcoming the situation.

In that direction, unfortunately, there is a tolerant attitude at the officials at the head of these bodies. In this segment, the process of taking mostly formal measures must be emphasized. Actually, the Minister of Finance, in the majority of cases, in order to improve the pace of denationalization procedure at first instance, made changes by rotating the presidents of the commissions for denationalization, who had already achieved poor results both in their work generally, and in the collaboration with the Ombudsman.

In this report year, the Ombudsman ascertained careless, unprofessional and inefficient work. It is supported by the fact that even after seven years since the day of submitting denationalization requests, for the majority of cases the commission explains that

the request is not complete, meaning that after the Ombudsman's intervention the subject cases were considered for the first time, which implies that they were kept in the drawer.

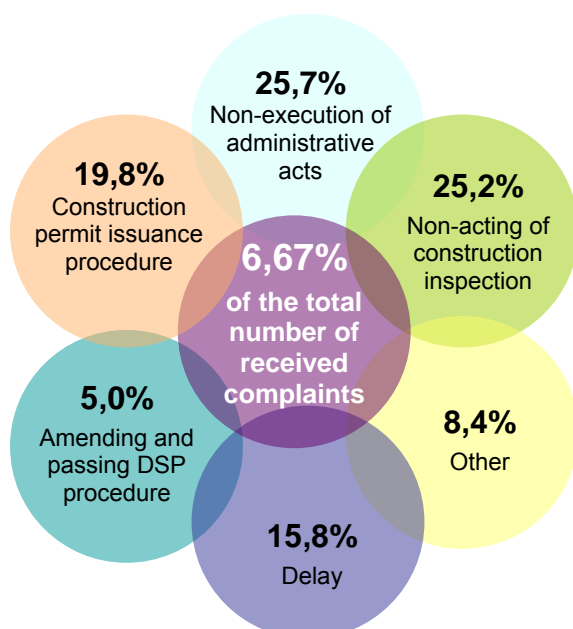
Finally, it should be highlighted that a significant tendency in a positive direction during 2007 in the collaboration with the Ombudsman and respect of its interventions was noticed with the State Agency for Geodetic issues and its organizational units. They undertook measures not only to respect the Ombudsman's interventions, but also general measures for decreasing the enormous number of open cases from the previous years, especially in the Survey and Cadastre Department – Skopje.

Building Planning and Civil Engineering



Decorating and humanizing the space are one the social life spheres of crucial importance for fulfilling the basic human right, i.e. the right to home, and they are the basic prerequisites for urban life and clear property relations, as well as necessary conditions for bringing up a healthy family community.

The normative changes in the past period, meaning the passing of the Law on Spatial and Building Planning, the Law on Construction, the Law on Ownership and other material rights and certain legal acts and by-laws regulating these areas creates prerequisites for facilitating the procedure for issuing a construction permit which for objects in 3rd, 4th and 5th category is already under authorization of the local government units.



However, accepting the competences by the local government did not improve significantly the present conditions, so the investors still face obstacles they used to face in the past.

The reason for this should be sought in the cadastre records keeping system which has not been regulated yet, the unfinished process of denationalization, the fact that the professional personnel was overtaken by the central authority from the local one in the process of transferring the competences, meaning those people with the mentality of being officials were one of the most serious obstacles in efficient realization of construction right.

One of the reasons is certainly the insufficient capacity of some local government units to meet the new challenges in a successful manner, insufficient professionalism and insufficient funds which are an obstacle for successful performing of their work.

As a result of this, in 2007 the Ombudsman received a big number of complaints regarding violation of citizens' rights and freedoms in the field of building planning and civil engineering. The majority of complaints referred to non-acting by the civil engineering inspection, in a big number of complaints the citizens requested an intervention for conducting a procedure for executing administrative acts for removing illegal objects, and there were complaints referring to irregularities the citizens faced in the process of issuing conditions of construction and building permits. The number of complaints in which citizens expressed dissatisfaction with the unjustified delay of procedures was relatively high, and in a small number of complaints they complained about procedures for passing detailed building plans. Of the total number of received complaints, about 90% have been closed, and for the rest of them, received near the end of the report year, the procedure is in progress.

After a conducted inquiry, the Ombudsman did not ascertain violation of complainants' rights. In ten cases in which the Ombudsman ascertained violations of rights, based on the activities undertaken in accordance with the legal competences, the complainants realized their legal right.

The listed data, as well the general knowledge about the conditions in this social sphere are an indicator for the situation and problems the citizens face every day, while trying to realize legal rights to solve their housing issue or to improve the urban living conditions.

The information gained during our work in this segment imply inefficient and inaccurate public administration, leaving suspicion for corruptive behaviour and abusing the position for personal interests, as a result of which the procedures last much longer than the legally set time frames.

After the initial difficulties in conducting the authority decentralization procedure the local government units faced during the transfer of competences in the field of building planning and civil engineering, the conditions in 2007 had a tendency for improvement in the organizational aspect, although the problem of insufficient personnel is still partly present, especially in the inspection departments, which have not been formed yet in the major part of smaller municipalities.

In this report year, the majority of complaints referred to inaccurate, unconscientiously and inert acting of the authorized building and civil engineering inspectors while performing inspection overview and not taking appropriate legal measures towards detected illegal objects.

Recent practice of non-conducting, meaning selective conducting of procedures for forced administrative execution of administrative acts for removal of illegal objects, especially cases about collective housing-business objects continues, in spite of the announcements by authorized bodies for a more accurate conduct of executive procedures.

The complaints also referred to long and complex procedures for obtaining building permits, long-term procedures for passing detailed building plans and their non-realization in the area of constructing public infrastructure objects, which is a responsibility of public authorities, and that it generates illegal construction of housing and business objects.

Frequent illegal and tolerant passive attitude by the local authorised bodies and officials caused by personal interests or political influences; create justified revolt and dissatisfaction of citizens and their disbelief in the institutions, most of all in the higher officials in charge.

The above listed problems and violations of citizens' rights in this field were a reason for the Ombudsman to undertake activities within the frames of its competences in this report year in order to protect citizens' rights. For that reason, numerous requests, implications and information to municipalities' mayors were submitted, since they are responsible for handling local building issues, and to the Ministry of Transport and Communication, as a body in

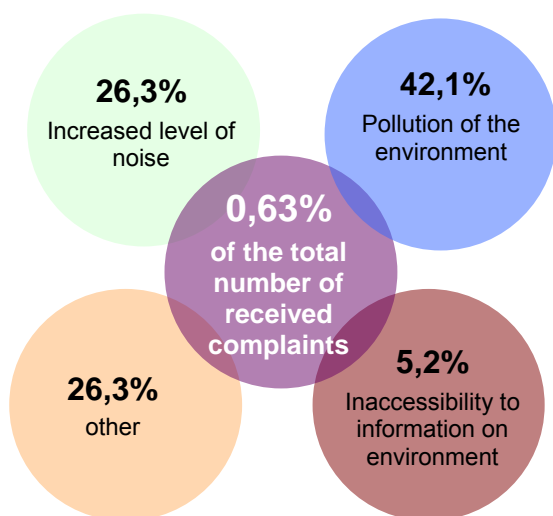
charge for monitoring the local government bodies' work in the area of building planning and civil engineering.

Environment

Protection of citizens' rights in the field of environment is of special importance since for the humans to survive, the basic prerequisite is not only their healthy lifestyle, but also living in a healthy and clean environment.



We are witnesses of the fact that the strive for a higher industrial development worldwide, in a situation of a constant increase of population, and by that enlarged needs for a high life standard and the race for a bigger profit lead to a permanent and enormous increase of polluting the environment: soil, air and water. Having in mind the global climate changes, as well as the general conditions of the pollution of the environment in the Republic of Macedonia, the fact that in 2007 the Ombudsman received an enormously small number of complaints in this field is worrying.



This situation implies the need for increasing the awareness and strengthening the capacities in the state in terms of protection and promotion of the environment, so that the basic human right of life in an environment providing healthy life can be realized. This basic right is upgraded by: the right of the citizens to obtain information, the right to participate in making decisions, as well as the right for protection before competent state bodies, mostly the public administration, and judicial bodies.

In this report year, the Ombudsman received a relatively small number of complaints in the area of environment protection. Citizens usually react when their individual interests are directly or personally endangered, which

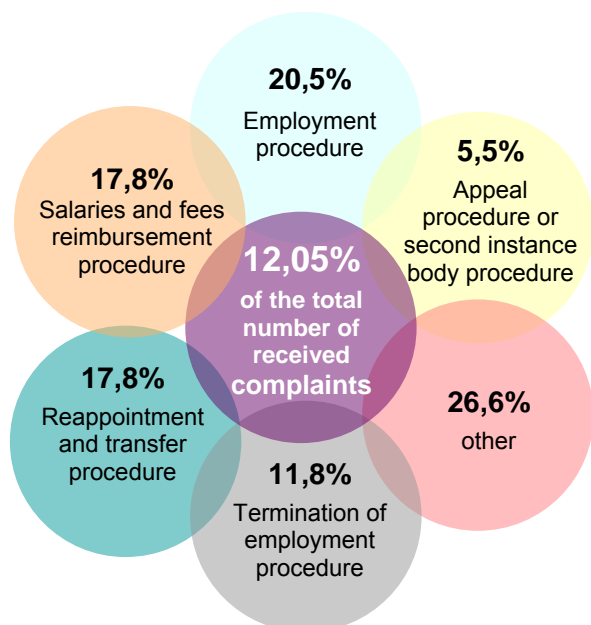
we believe is a result of the low ecology awareness of the population, which is supported by the number of only 19 submitted complaints to the Ombudsman in this area.

This report year as well, is characterized by requests in this area mostly referring to increased level of noise caused by bars/restaurants situated in residential objects or in their vicinity. The small number of requests referring to pollution of space is opposed to the real pollution, which we witness is on the highest level.

The Ombudsman confirms that in the report period, in which the competence for protection and promotion of the environment was transferred to local level, the conditions did not change, meaning the competent bodies did not answer the seriousness of the issues on pollution of the environment.

Labour relations

By monitoring the realization of rights in the area of labour relations, the Ombudsman highlights several particular conditions because of their importance, as well as conditions occurring through years and still continuing, without any changes in activities.



A more specific example of violating labour relations rights appeared in procedures when the employer did not conduct the employment procedure completely, so the applicants employed were not registered with the competent registration body; or in spite of a completely conducted procedure, the employers did not select an applicant. There were also cases of not acting upon a second instance body's implications, meaning the decisions made by a higher body were not conducted, which forced the employees to seek protection before a competent court. Another evident issue was violation of labour relations in conducting the appointing procedure because in this report year, appointments from a higher to a lower post were more frequent without respecting the legal

provisions stipulated by the Law on Public Servants and the Law on Labour Relations.

So, in 2007 dissatisfied applicants continued complaining on the manner of conducting the employment procedure in public administration bodies. Their complaints were mainly about the selected applicants considering that an inappropriate and incompetent person was employed. In such cases, the Ombudsman required by the competent commission, while deciding in a second instance procedure to take into consideration all material evidence and facts in order to make a righteous decision.

In terms of conducting an employment procedure, in 2007 the Ombudsman received complaints on non-selection of an applicant after completed employment procedure. Based on these complaints, the Ombudsman requested selection of an applicant by the persons in charge at public administration bodies, because the Law on Public Servants does not stipulate the possibility for the person in charge not to make the selection. The provisions in the Law on Public Servants lists the complete procedure for selecting an applicant for his/her employment for the needs of public administration bodies, but it does not provide a possibility for not selecting an applicant suggested in the list and submitted by the employment commission. At the same time, the Law does not provide a possibility for re-appointing public servants; such issues occurred anyway. In cases like these, the justification of a submitted request by a public administration body to the Public Servants Agency for a need of an employee becomes



disputed, i.e. the procedure in general of announcing the post, taking a professional exam, conducting interviews and expenses the applicants meet.

So far, after submitting implications to the public administration bodies and the second instance commission for settling appeals and objections for public servants at the Public Servants Agency, the Ombudsman has not received a notification on particular cases whether the implication for nullifying a decision by the public administration bodies was accepted, or whether an appeal by a rejected applicant who was on the short list was accepted.

In this report year, citizens continued complaining on violation of labour relations rights in the process of appointing, i.e. violation of public servants' right appointed to posts on with a lower title, without respecting the provisions of the Law on Public Servants. One again, like in the previous year, the second instance commission for settling appeals and objections for public servants at the Public Servants Agency, did not reach a decision for accepting an appeal by an appointed public servant for any case, which allows a free conclusion that the competent commission acts in an incompetent and unprofessional manner in terms of protection of public servants' rights.

The situation with the procedure for reappointing employees according to the Law on Labour Relations is similar.

Like in the previous years, the majority of complaints referred to a request for protection of labour relations right with the teaching personnel in the education system, whose problems about full-time or part-time employment, transformation of working terms procedure, reappointment to available posts and adding number of classes did not only remain unimproved, on the contrary, they are constantly moving downwards without any hope for improvement. In order to establish the real situation, the Ombudsman continuously requires monitoring by the education and labour inspector, but in the majority of cases the Ombudsman was informed only on the factual situation, which had already been noted in the request submitted to the body, as provisioned by the legislation on the basis of which the Ombudsman addresses a request for taking measures in terms of protecting the teaching personnel's rights. The Ombudsman considers that the competent inspection bodies neither utilize the competences provided by the Law on Labour Inspection, the Law on Labour Relations and the Law on Education Inspection, nor they have a will for undertaking concrete measures for protection of teaching personnel's rights, although they are aware of the fact that their labour relation rights are violated, and they advise the complainants to realize the protection in court procedures.

In this report year, the number of requests for protection of teaching personnel's rights applying for the position of a manager of a particular school increased. They implied violation of conducting the procedure itself, meaning violation of provisions of the Law on Elementary Education and the Law on Secondary Education. In these cases, the Ombudsman addressed implications to the second instance Government commission. The second instance commission accepted a small number of them, and the remaining ones were directed to realize the protection of rights before a competent court.

Regarding termination of a working relation, the number of requests for protection of rights in this aspect decreased.

In 2007, the Ombudsman received a complaint by a group of citizens asking for protection of labour relations rights in the employment procedure before the Secretariat General at the Government of the Republic of Macedonia. The Secretariat General at the Government announced employment of 81 public servants in 2006, in various departments of public administration bodies. After conducting the employment procedure, a selection of applicants was made, meaning a selection decision was made. The selected applicants could not realize their employment right because of the inability for their registration at the Employment Agency as employed persons. The reason for rejecting their registration at the

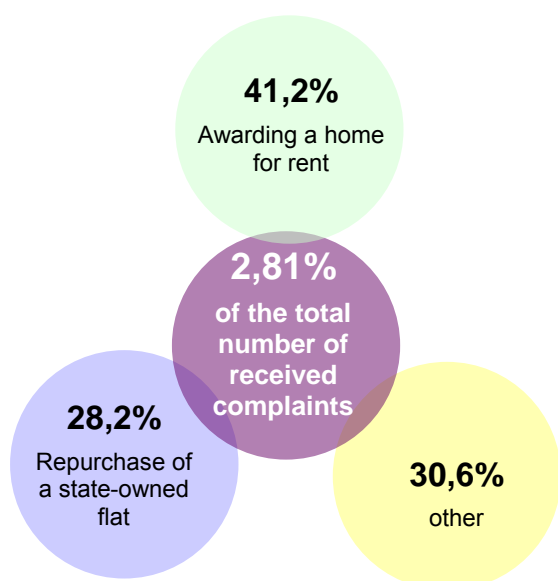
Employment Agency was the unconfirmed agreement on provided financial means by the Ministry of Finance for 2007, without which the employment at public administration bodies can not be done. Acting upon the complaint and confirming the factual situation, the Ombudsman was informed that the Secretariat General had received approval for allocated financial means in 2006, but because the decisions on selected candidate were made at the end on December 2006, the Secretariat General, knowing the legal provisions that the approval for allocated financial means is valid only for the current year, instead of taking immediate measures for registering the candidates at the Employment Agency, did not do it which contributed to slowing the complete process of employment of the selected applicants.

The Ombudsman requested from the Ministry of Finance to accelerate the procedure of deciding upon the request submitted to the Secretariat General at the Government for renewal of the approval for allocated financial means for 2007. After receiving the information that the approval was renewed, the Ombudsman addressed the Secretariat General to take immediate measures for signing employment contracts and registering the complainants in order to fulfil their employment rights. Since the Ombudsman did not receive any information on measures taken, it provided information to the President of the Government, requesting taking measures for overcoming the situation; unfortunately, no reply has been received. The complainants realized their right by initiating a court procedure. After the initiation, they signed employment contracts for the positions they had been selected in 2006 by the Secretariat General.

Besides with the Secretariat General at the Government, problems of this nature appeared with the Ministry of Agriculture, Forestry and Water Economy, as well.

Having in mind the above mentioned, it can be concluded that in the field of labour relations the situation has not been changed, that the employees realize their labour relations rights on the lowest level and that in order to realize their rights they are forced to address the competent judicial bodies. Because of the inability to initiate a court procedure, some of them continue suffering the consequences of the subjective and illegal behaviour on behalf of the employers, accepting the reality that their labour relation rights remain violated and unprotected.

Homing



During 2007, the Ombudsman, once again, faced numerous problems in the area of residential relations. Having in mind the number of complaints received and their contents, it can be confirmed that there were slight changes in the field of residential relations in the aspect of accelerating the procedures before competent bodies, as well as in the aspect of realization of citizens' legal rights.

The beginning of this year was marked with the complaints by a group of employees at the Public Enterprise "Makedonski Zeleznici" – Skopje, who required assistance in buying the flats as being entitled to the residence right of the flats they were using based on signed agreements with the Enterprise for utilization of

the flats. The procedure confirmed that the majority of them had initiated court procedures, and with a decision by a competent court, their requests for exchange of consent of the owner (the Republic of Macedonia in this case) for buying the flats, were rejected. Taking into consideration the legal solutions, as well as the decisions by the competent bodies, it turned out that the complainants' requests were unfounded, meaning the Public Enterprise acted in accordance with the Law, without violating complainants' rights.

However, the majority of complaints in this field in 2007 referred to the unsolved residential issue for the category of socially deprived persons without their own residential place, the awarding of the flats constructed under the "Project for Building Flats for the Persons with Low Income", meaning the procedure conducted by the Ministry of Transport and Communication for the transfer of residential right to a family member, as well as the requests for buying the flats in accordance with the Law on sale of flats owned by the state.

In 2007 the Ministry for Transport and Communications took appropriate measures upon the Ombudsman's reactions for the majority of cases. It is undisputed that in the aspect of taking these appropriate actions for the majority of cases in question, respective decisions were reached.

However, besides the positive results, it is a fact that in some cases upon request for transfer of the residential right and buying a flat owned by the state, the Ministry of Transport and Communications submitted replies of formal character, informing that the procedure for completing the documents was in progress and with a note that the request would be decided upon after completion of necessary papers. Still, after a long period of time, the corresponding department did not reach a concrete decision. The Ombudsman informed the corresponding Minister on the issue and requested priority in considering and deciding upon mentioned cases.

Awarding flats in several towns in the Republic of Macedonia built under the "Project for Building Flats for the Persons with Low Income" continued with increased intensity; however, the Ombudsman received a significant number of complaints in which the citizens imply to irregularities in scoring and final distribution of those flats. In all those cases the Ombudsman took appropriate measures and activities and addressed implications, which in the majority of cases were respected by the Ministry of Transport and Communications.

The Ombudsman acted upon complaints in which the citizens implied to irregularities in the procedure for awarding a flat for rent on all legal bases conducted before the Government Commission for residential issues. In the past years, the Ombudsman, on several occasions, implied that it is necessary for the Commission on Residential Issues to act upon citizens' request for awarding a flat for rent in property of the state according to the Law on Housing, the Law on Denationalization and the Law on Special Rights of Security Units Members and the members of their families in legally stated time frame. In that aspect, the Ombudsman asked the Commission to pass an appropriate act which would respect clients' requests.



It is obvious that the Commission during last year, unlike the previous ones, acted and informed the Ombudsman on the decisions reached. However, in the majority of cases not being acted upon in a timely manner, the Ombudsman addressed information to the President of the Commission of Residential Issues, requiring priority in considering them and deciding upon them.

During this report year, besides acting upon complaints, the Ombudsman took additional activities for improving the conditions in the area of housing, by addressing

opinion, suggestions and notes on the proposed text of the proposal for passing the Law on Housing. The Ombudsman's notes on the text of the new Law on Housing were based on the confirmed disadvantages from the practical work and from the contacts with the citizens in the present Law on Housing, which does not regulate certain problems completely or insufficiently and that leaves an opportunity for numerous violations of citizens' rights.

The majority of notes referred to the conditions for awarding a flat for rent because it is unacceptable for the general, as well as the special conditions for awarding a flat to be regulated by bylaws or competitions; on the contrary, they should be regulated by Law, and only additionally elaborated in a by-law.

Further on, the Ombudsman implied the need for an advanced detailing of the part which regulates awarding residential objects with a special purpose for housing of socially deprived persons and further elaboration of the privileged rent.

According to the Ombudsman, the part referring to applicants who with their profession and activities performing are of importance for the local community is particularly unclear and this part does not contain clear criteria for declaring such persons. One question occurs: will this category encompass persons who will be awarded flats for professional needs; further on the text says that they will be awarded to infinite period of time and is this solution justified?

The problems the Ombudsman and the Ministry of Transport and communications have been facing in the last period in terms of listing the applicants at the competitions for awarding flats owned by the state for rent is a problem which will not be solved with the proposed text of the Law. In that aspect, the Ombudsman suggested defining general as well as the special conditions for awarding flats with unprofitable housing, in order confusion in future distributions to be avoided.

Passing a new law with clear and precise provisions will enable more accurate and more efficient protection of citizens' rights in the field of housing. At the same time, being a significant segment for a more efficient protection of citizens' rights, there is a need for necessary collaboration and exchange of experiences among all bodies, organizations and institutions responsible for acting and working in the field of housing.

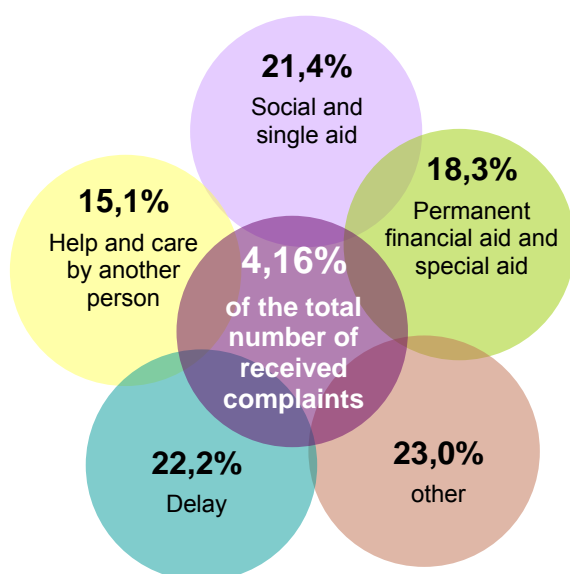
Social Security and Protection

From data on received complaints by the Ombudsman during 2007 in the field of social security and protection, it can be concluded that the number of complaints in comparison with the previous year is significantly lowered. However, the Ombudsman can not confirm that the decrease in the numbers is due to accurate realization of the constitutional guaranty for social security and social justice. The Ombudsman believes that the social situation of citizens has not been changed, that the amount of social aid which continued to be paid in 2007 does not satisfy the basic existential needs of the citizens and there is not a decrease in the number of social aid beneficiaries.

It can be noticed that this year, just like the previous ones, the majority of complaints submitted to the Ombudsman in this field refer to unjustified delay of first and second instance administrative procedures; then as a result of the requests for submitting a big number of documents in order to realize a certain right, as well as because of the difficulties



for the citizens to provide all documents needed on time and the financial means needed for that purpose. The Ombudsman, after ascertaining the situation, can confirm that the competent bodies almost never utilize their right and official obligation to collect the documents needed from the competent bodies and advise the citizens on the conditions and possibilities for realization of their rights. In that aspect, the Ombudsman on several occasions ascertained continuing of the practice of discontinuing social aid as a result of incomplete documents or on the basis of misstated factual situation because of lack of submitting a certain document, which could have been provided by the centre on official basis. In certain cases, however, when official data is requested from other bodies, as a result of inappropriate record keeping and coordination between bodies and organizations, giving wrong data and information was often a case, so without further checking and without taking into consideration the evidence submitted by the clients on the same issue, the centres discontinued or did not recognize certain right of the citizens. In those cases, mainly after the Ombudsman's frequent interventions, the stated failures were removed and the complainants were able to practice their rights.



At the same time, as a result of incomplete documents of the requests submitted, the counter employees at the social welfare centres often rejected requests by citizens because of which the citizens could not meet the deadlines for submitting completes requests, which resulted in inability to practice a certain right. The Ombudsman intervened for every request by the citizens to be accepted by the centres, to be registered or the centres to ask for additional documents they can obtain officially, as well as to reach appropriate decisions. The welfare centres mostly respected the Ombudsman's implications.

In terms of delay of appeal procedures, the number of complaints in this field in 2007 decreased, and almost all of them assisted by the Ombudsman resulted in success, meaning the implications and recommendations by the Ombudsman were most often respected. In the majority of decisions, the corresponding Ministry accepting the appeal and annulling the decision of the first instance body, it strictly regarded the Ombudsman's recommendations and implications and requested by the first instance body to act according to the Ombudsman's implications. At the same time, the efficient and successful completion of cases after submitting an appeal, meaning realization of citizens' rights was due to frequent insights and consulting meetings, as well.

In terms of delay of procedure, especially in realization of right for permanent financial aid and compensation for helping and taking care of a third party, an especially worrying fact was that in certain cases the procedure before competent commissions for estimating the working ability and the need for compensation for help and taking care by another person was delayed, although in this kind of cases the reaction should be prompt, because the case is about people with severe diseases who can not take care of themselves. In such cases the Ombudsman directly intervened to the competent commissions to accelerate the procedure.

The cooperation of the competent bodies with the Ombudsman was on a satisfactory level, especially the one with the Ministry of Labour and Social Policy, which can not be said about the Inter-municipal centre for social issues at the city of Skopje – Department Cair and

the Inter-municipal centre for social issues – Tetovo. The cooperation experienced difficulties and the procedures in both centres are frequently delayed. However, the cooperation with these two bodies has been improved lately, which can be noticed by respecting the Ombudsman's requests and recommendations.

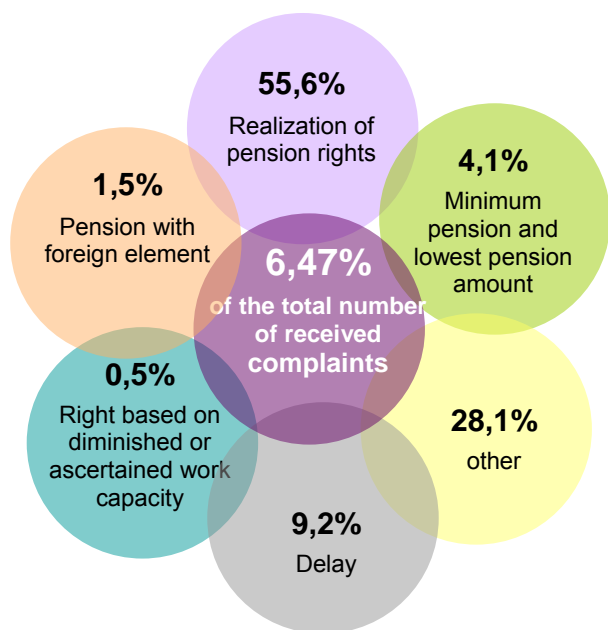
Besides acting upon single complaints, the Ombudsman during 2007 conducted a survey on how much the social financial aid beneficiaries are engaged to work. *

Based on the conducted analysis in every social welfare centres in the Republic of Macedonia, the Ombudsman found that the number of social financial aid beneficiaries engaged to work is significantly small and it is only 10% of the total number of social financial aid beneficiaries and that no concrete measures are taken in direction of finding possibilities for engaging to work of a bigger number of social financial aid beneficiaries. Some of the social welfare centres, e.g. Bitola, Kavadarci, Struga and Stip have not realized any working engagement for the social financial aid beneficiaries, allegedly because such needs have not occurred or because of not stated reasons.

According to the data gathered, the Ombudsman finds that the beneficiaries most often accept the job and they are interested in performing certain duties, which is a positive indicator and imposes a need for finding every possible way for job engagement of a bigger number of social financial aid beneficiaries.

In that aspect, in the Information on the conducted survey submitted to the Ministry of Labour and Social Policy, the Ombudsman recommends the competent bodies to engage the social financial aid beneficiaries more frequently in order to re-socialize them, to improve their social status and to save means.

Pension and disability insurance



In this report period, the rights for pension and disability insurance regarding the complaints the Ombudsman acted upon, unlike previous years, is realized in a faster and more efficient manner and generally there was an improvement in terms of respecting the legal time frames for deciding upon citizens' requests, especially upon appeals.

The majority of complaints refer to realization of the right for age pension, and compared with last report, the number of complaints about realization of this right increased. At the same time, the number of complaints about realization of family pension increased as well. The most frequent reason for submitting a complaint in this field was the prolonged reaching a decision by the competent bodies and irregular calculation of the working years.

* Survey information can be found on the Ombudsman website

A part of complaints referred to realization of right of pension according to article 30 of the Law on amending and modifying the Law on Pension and Disability Insurance which was in force until 01.09.2007, on the basis of which the insured persons could realize their right for age pension with 35 years (female) and 40 years of work (male) regardless of the age.

Regarding the realization of age pension on this basis, the complaints were mostly filed because although having completed 40 years of work, taking into account the privileged years of work, the insured persons at the critical moment, i.e. on 01.09.2000 (according to the Fund's records) did not have the required working time and could not fulfil the right to age pension on this basis.

In 2007, the number of complaints about realization of agriculture pension right decreased, because the problem about completing the contribution payment for pension and disability insurance were overcome for the complete period of being insured.

Namely, the competent bodies formed an attitude for the farmers who had paid contribution for at least 15 years and fulfil the age limit, can realize the right for age pension and at the same time they accept the obligation to complete the contribution payment for the complete period of being insured in a certain period of time. However, a delicate question occurred: Should not the farmers, who lack only a few months or days to complete 15 years of work, be allowed to pay the contribution up to 15 years immediately so that they can realize the right for age pension, and additionally pay the contribution for the remaining period of being insured?



Regarding the realization of the right for disability pension, like in the previous years, this year a bid number of complaints were filed on the same problems, meaning the commissions for estimating the working capability are not objective and the citizens face difficulties in realization of the disability pension right.

In order to realize this right, besides acting upon separate complaints, aiming to establish the manner of work of these commissions, in 2007 the Ombudsman realized several direct meetings and insights in the work of the competent commissions. During insights, among other issues, it was ascertained that the Commission for revision, only on the basis of the documents submitted forms an opinion and does not conduct direct check up of the citizens – applicants, which is against the rules provisions, so the Ombudsman reacted to the mentioned omission.

Acting upon complaints referring to realization of disability pension right, it was found that the second instance commission for deciding upon cases of pension and disability insurance at the Government does not have medical personnel – doctors in its structure. As a result that, the following question occurred: how professionally and competently can this commission reach a righteous decision upon filed appeals against first instance bodies' decisions? Subsequently, the Ombudsman implied to the competent bodies the need for taking measures in order to be able to reach objective and regular decisions upon citizens' requests and appeals.

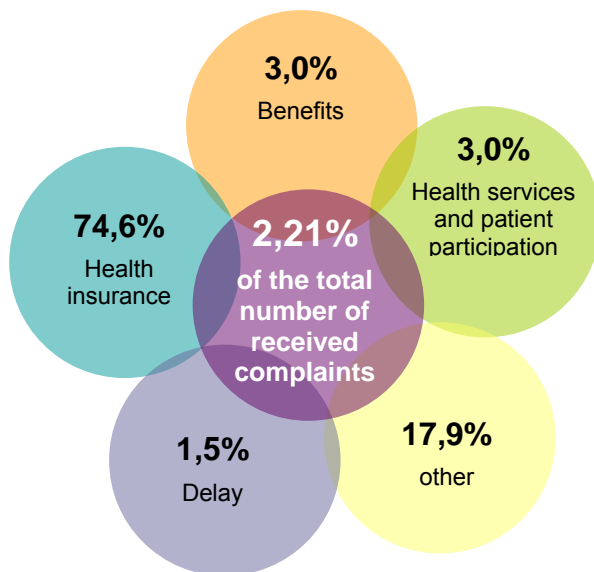
A special problem the citizens faced this report period were the unpaid contributions by the employers, because of which the Ombudsman intervened for the Fund for Pension and Disability Insurance, authorized and responsible by the law, to take measures for enforced payment of the contribution. A part of the insured persons had initiated a court procedure for payment of the contribution and based on final court decisions, they were paid. Still the Fund rejected entering the pension working years in the records, only because the employer paid the major debt, and not the interest, although the verdicts did not obligate the employer to pay the interest. Following the Ombudsman's interventions, the Fund undertook

measures in order to overcome this problem, meaning the pension working years with paid contribution started to be registered in the records, and by a separate act, the employer was obliged to pay the interest. This means that whether the interest is paid or not, in connection with the completed payment for contribution, the insured persons realized their rights.

There were a significant number of complaints referring to obstacles in realization of rights based on international and bilateral agreements, in which the citizens expressed facing problems in realization of proportional parts of their pension and re-retirement. These problems have not been overcome with Serbia yet, although the procedures started in 2002. As a result of the big number of insured persons, lack of appropriate data, not clarified issues between the two states and other issues, the procedures for the part of citizens are still in process. After signing an agreement with Bosnia and Herzegovina the re-retirement procedure started, but it has not been conducted completely and it is not applied for realization of certain rights. For overcoming the problems with realization of rights based on international agreements, especially in terms of conducting it in a faster manner, the Ombudsman requested by the competent bodies in the Republic of Macedonia to intervene before competent foreign bodies.

The problem with realization of the right for the lowest pension amount occurred in this report period as well. Thus, there were cases when without retired persons' consent the Fund withheld a half instead of a third of the pension amount, and in certain cases the complete pension amount was withheld when the citizens with no grounds required realization of the right for lowest pension amount without informing that they had realized the right of a foreign pension. As a result of that, the Fund, until clarifying the truth, paid the lowest pension amount, without any grounds, and this illegality was removed after the Ombudsman's interventions.

Health Insurance and Protection



In terms of protecting rights in this area, the number of complaints in this report year increased. Through them, the citizens complained about almost the same problems as in the previous years, although several reforms had been implemented. However, certain problems remained unsolved, and an especially worrying fact is the practice of the competent bodies not to act upon citizens' requests in a timely manner.

Difficulties in realization of the right for recognition of citizens as insured persons and issuing certificates for health protection, the so called blue cards, continued to occur although the Ombudsman, in accordance with the legislation, keeps the already expressed opinion that there is not a legal ground for

not recognizing the qualification of an insured person, for not performing insurance changes or not issuing of blue cards only because the insured person, based on some previous

grounds, which ceased, did not pay the debt to the Fund, if on the new grounds the contribution is paid regularly.

The Fund changed the attitude to this issue several times, but the Ombudsman implied that the legal grounds for recognition of the insured qualification and performing change of insurance did not change. Because of that, there is no ground for restriction of this right. After the Ombudsman's implications in the majority of cases, especially upon filed complaints, the citizens managed to realize their right.

The number of complaints about the right for refunding treatment expenses, meaning hospital or other kind of treatment, as well as refunding of expenses not stipulated by the law increased. Acting upon these complaints, the Ombudsman most frequently ascertained violation of citizens' rights and intervened for the Fund to refund the expenses. The Ombudsman's implications and requests in this direction upon every grounded complaint were accepted.

A part of the health institutions did not practice excepting expenses for certain diseases stipulated in the law or by-laws or Government's programmes, or the citizens were obliged to pay participation amounts not stipulated in the law or by-law. After the Ombudsman's implications, these acts were discontinued and charging illegal participation amount was stopped.

Having in mind that the practice of not recognizing the expenses for basic health services in health institutions which do not have an agreement with the Fund continued, although a legal provision was included, finding that the legal provision is not in accordance with the Constitution, the Ombudsman submitted a proposal to the Constitutional Court in the Republic of Macedonia for estimating its legality, after which the mentioned legal provision was disclaimed.

In terms of signing contracts between the Fund and health institutions, complaints were submitted by persons who had established private health institutions and the Fund rejected signing a contract with them only because they fulfil the right for pension or are retired persons. Finding that this ground in the legal and bylaw regulation, which stipulated the conditions for signing contracts with health institution, is not stipulated as an obstacle for signing a contract, the Ombudsman implied to the Fund of Health Insurance that the actions taken are not in accordance with the legal and bylaw legislative. The Ministry of Health supported this view and required the Fund to change the attitude and the Ombudsman informed the Government on this issue as well. However, the Fund did not change the attitude and refuses signing contracts with health institutions in which the main activity holders is a retired person or a person fulfilling the right of pension. According to this view, the Fund reacts in the same manner with the newly received applications.



In terms of realization of right for salary compensation during pregnancy and delivery, we should mention the Fund's attitude of rejecting this right only because of passed deadline for realization of these rights, although the contribution was additionally paid, and its paying interrupts the obsolescent character. The Ombudsman intervened for recognizing the right for compensation in case of additionally paid contribution. The first instance bodies, meaning the Fund did not respect the Ombudsman's implication, but on the occasion of the appeals submitted, the Ombudsman expressed the same attitude before the Ministry of Health, as a second instance body, which accepted the appeals in accordance with the Ombudsman's implications.

Since the citizens face a big number of problems in cases of various diseases, according to the program tasks the Ombudsman followed the situation of realization of citizens' rights who are treated for dialysis. The Ombudsman found that there are several problems and failures which reflect negatively on the citizens' health and contribute to endangering of basic human rights of ill people. Among other things, it was found that there is lack of spatial capacities and appropriate machines for dialysis and inadequate conditions for dialysis. Such conditions do not allow adequate and timely treatment of all persons with a need for dialysis.

As a result of the above mentioned, in the Information* submitted to the competent bodies on the situation found, the Ombudsman recommended improving the working conditions in the existing premises and detecting possibilities for opening new dialysis centres which can accept all people who need dialysis or hospital treatment, as well as supplying modern equipment for satisfying the citizens' needs. After submitting the recommendations, the competent bodies undertook several measures for improving the situation by: purchasing new equipment, opening new dialysis spots and other measures which are expected to contribute to adequate treatment for people with necessity of dialysis. The situation, however, is still not on a satisfactory level, meaning the citizens continuously face problems and difficulties in dialysis treatments.

The Ombudsman monitored the situation with drug addicts' rights and in order to confirm the conditions and prerequisites for rehabilitation and assisting these people, several institutions and day centres for prevention and treatment of drug addicts were visited. During the insights the Ombudsman found that the treatment includes methadone and there is lack of premises and appropriate conditions for treatment and accommodation of addicts. Inappropriate conditions in group treatment were noticed as well, especially at the Psychiatry hospital "Skopje", where the drug addicts and alcoholics are treated in the same room, although they should be treated according to different programs and in separated rooms. The Ombudsman found lack of space for accepting all addicts wanting to be a part of the Program for treatment, so they were put on the waiting list, and the period of waiting is not certain. It indicates the need for opening new centres for addicts in the municipalities needed, as well as opening treatment of addicts clubs.

The Ombudsman recommended the competent bodies finding other appropriate modern methods and manners for rehabilitation and complete termination of drug abuse or methadone therapy, in order to improve the situation. At the same time there was a recommendation for improving the working conditions, spatial accommodation and equipment, training professional personnel and creating prerequisites for realization and respect of basic human rights. Having in mind the increasing tendency of the number of drug addicts, and the decreasing age limit, the Ombudsman recommended implementing educational programs in the schools for prevention and lowering the number of drug and other psycho-active substances addicts, and introducing the children at a very young age to the hazardous consequences of these vice.

Children's rights

By increasing the citizens' awareness of children's rights and the need for their protection from various damages and violations, the number



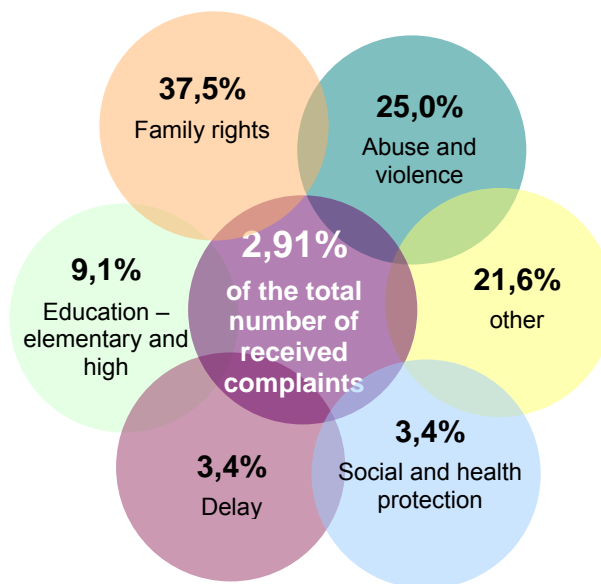
* Information on conditions in dialysis and drug addicts treatment centres can be found on the Ombudsman website

of complaints filed to the Ombudsman on children's rights protection increases every year. However, satisfaction with the treatment of children as subjects with special rights, interests and responsibilities not only by their parents, but also by their teachers, and especially by the state institutions responsible for children's rights, can not be expressed yet. This is due to the fact that while reaching a decision referring to children, their best interest is not always considered, although it should be a prior issue. Children's insufficient education and self-awareness on the rights and obligations still contributes to the inappropriate status they have, which can be concluded from the fact that still a small number of children request protection of their rights by the Ombudsman or some other institutions. Children have insufficient knowledge of their rights, and they are even less capable of recognizing violation of rights and requesting protection, which was proved by the Ombudsman's survey.

During this report year, the trend of the majority of complaints referring to realization of children's rights to keep personal and direct contacts with the parent they do not live with continued. Such complaints were most often filed by the parents, who most frequently abuse and use their children in order to fulfil personal requests and aims.

Acting upon these complaints and generally analyzing the work of social welfare centres in terms of making decisions or taking measured touching children's rights and interests, the Ombudsman found that before making a decision or taking certain action, the centres almost never conduct monitoring in a certain period of time while the parents perform their parental right, which would bring them appropriate data and information, and that would give them an opportunity to make a decision of the best interest for the children.

This manner of acting by the social welfare centres was proved at the three workshops organized with representatives from all social welfare centres in the Republic of Macedonia, organized by the Department for Social Activities. One of the presenters was a representative of the Ombudsman's Office. These workshops showed that the centres perform monitoring of parental right only upon someone's request, and quite rarely upon official duty. In cases when some kind of monitoring of parental right is conducted, it is done through one or two meetings at the centre or at the parent's house, whereas the children are rarely included. In order to create conditions for special care and protection most of all of children's interests and rights, the workshops produced a conclusion that a reorganization of centres is necessary and that for family issues and relations should be dealt with by specialized departments, composed of specialized and trained personnel, acting only upon these issues, and not engaging in every other aspects of the centres' competence, as it is the case nowadays. According to the centres, establishing counselling offices is necessary, which would have the role of a supervisor, but they would also assist the professional teams in the centres when they would not be able to solve a problem. So that these objectives can be met, providing technical and personnel prerequisites in every social welfare centre is essential. One special problem detected by the Ombudsman in acting upon separate complaints, emphasized by the representatives of every social welfare centre in the Republic of Macedonia, is the lack of appropriate legal and practical mechanisms for execution of decisions for keeping personal contacts of the child with the parent he/she does not live with,



because very often the parents do not respect the valid decisions, and the centres do not have ways and mechanisms to force them without causing trauma and problems for the children. In that aspect, the centres suggest including authorised executors for conducting these decisions.

Acting upon complaints about the children's right to keep personal contact with the parent he/she does not live with, led by the children's best interests and the perseverance of the Ombudsman for finding appropriate solutions, the social welfare centres in the majority of cases managed to create conditions for maintaining regular and quality personal contacts between children and parents. In a small number of cases, besides the Ombudsman's insistence and the social welfare centres, not a single measure helped for the parents to overcome their internal conflicts. Because of that, the Ombudsman required from the centres to advise the parents and the children on regular basis or to direct them the special professional institutions. In some cases professional monitoring on the centres' work was required from the Social Activities Department or inspection monitoring which contributed to overcoming a part of the problems, but not the whole of them. The party suffering the most were the children; they undergo trauma, become distanced from one of their parents and generate a feeling of resistance and anger, which further on has negative impact on the children's psychophysical development and their growth in a healthy, responsible and tolerant person.



The Republic of Macedonia, having signed the Convention on Children's Rights and in accordance with the legislation on children, should protect them from any kind of violence and abuse. Unfortunately, children are more often violence victims, especially family violence, which caused submission of several complaints to the Ombudsman in 2007. Acting upon these complaints, as well as after the Ombudsman's recommendations based on conducted survey in 2006 and which was presented in the previous report, the Ombudsman did not find any improvement of conditions both in terms of legislation and in practice. An especially worrying fact is the besides the Ombudsman's interventions and implications, the social welfare centres did not act on time and did not always take appropriate measures for securing appropriate measures for real protection of the child from further family violence. Regarding the protection from family abuse of the children, besides implied and accepted recommendations from the Ombudsman given on the basis of the survey on family violence in 2006, they were not completely realized in 2007. However, several activities and actions for repression of this issue were taken⁷. In this respect, the Ombudsman especially emphasizes the need for urgent opening of the planned counselling offices for doers of family abuse and practicing the measure of excluding the abuser from the family, instead of excluding the child, so that the child can overcome the trauma in an easier way.

Children violence is not found only in the family. Unfortunately the children are subjects to violence in the schools, as well. In terms of this, the Ombudsman in this report year conducted a survey encompassing 4500 pupils from the fifth to the seventh grade. Information* was compiled after it and it was submitted to the corresponding Ministry and the Government.

⁷ Amendments and modifications to the laws have been made, passing a long term strategy for protection of family violence victims is in progress, which, based on the Ombudsman's proposal given at the public debate, should contain a separate part of special tasks and measures for protection of children – victims of family violence; a training for the personnel dealing with this issue is in progress and a representative of this institution is taking part, and there are other measures which are being undertaken.

* Information on violence in schools can be found on the Ombudsman website

The survey revealed that along with the physical and psychological molestation, in the schools another kind of violence on children occurs, which is worrying and immediately imposes the need for taking measures for eliminating this situation in the schools. In that sense, the Ombudsman suggested the legislation to define every kind of violence on children, to stipulate more precise and stricter punishments for the teachers performing any kind of violence or abuse of the children, especially the measure of prohibiting the conduct of educational activity for every teacher applying this behaviour to children.

During this report year, although there were no complaints, there were implications by certain non-governmental organizations that a part of the children in the Republic of Macedonia still do not attend elementary education only as a result of the poor financial situation of their families. Although the previous year the Ombudsman requested taking measures for overcoming of this problem, one of them being implementation of a legal obligation for material assistance and other type of support as well as other simulative measures for attending elementary education, and the elementary education to be free in the real sense of the word, as predetermined in the Convention of Children's Rights and the Constitution of the Republic of Macedonia, which was accepted by the competent bodies replying that they would allocate special budget funds for this purpose, unfortunately this problem has not been overcome yet.

Like in the previous years, in 2007 the Ombudsman paid special attention to the rights of the children with special needs. It was found that they still face many problems and difficulties in their everyday life, their fusion in the educational system and realization of other rights. At the Annual Meeting of the European Network of Children's Ombudsmen – ENOK there was a discussion about children with special needs. At that meeting, a declaration* was adopted, which among other issues, states that it is necessary for the countries to take activities for increasing the awareness for the children with special needs, that these children should be included in the decision making process concerning them and that measures should be taken for including the children with special needs in the educational institutions, as well as measures for supporting the families of these children and their protection from violence and abuse. The Ombudsman forwarded the Declaration, adopted by ENOK, to the Government of the Republic of Macedonia, the Ministry of Labour and Social Policy and the Ministry of Education and Science, reminding them to the proposals given in regard with undertaking appropriate measures for this category of children.

Following the realization and respect of children rights, during 2007 the Ombudsman conducted a survey on the conditions in a part of institutions for accommodating children. Several problems and irregularities were found. The Information* submitted to the Government and the Ministry of Labour and Social Policy, the Ombudsman, among other issues, recommended rechecking the work of a part of the institutions ("25 Maj", "Ranka Milanovik"), in terms of overlapping work regarding accommodating the same categories of children. The Ombudsman implied that children who have not performed punitive actions and do not practice delinquent behaviour being together and under same conditions with children who have performed punitive actions is not of their best interest. ("Ranka Milanovik"). Regarding the already initiated process of deinstitutionalization, the Ombudsman suggested finding possible solutions for alternative, instead of institutional care of the children with delinquent and socially unacceptable behaviour, more specifically those children should primarily be accommodated in families. For that purpose it is necessary to educate the families on providing appropriate care for children of this kind of problematic categories, to stimulate them financially and to offer them professional and other kind of support for accepting this category of children.

* ENOK statement for children with special needs is available on the Ombudsman website

* Information on conditions in institutions for accommodating children is available on the Ombudsman website

In order to insure more efficient functioning of these institutions, it was suggested for them to be transformed into smaller centres and establishing so called family units with several children. They would work with and be taken care of by a special multidisciplinary professional team in order to provide improvement in the behaviour of these children, their education and socialization, as well as more frequent work with these children's parents for easier overcoming of the problems.

In order to provide protection of children from alcohol and cigarettes, the legislation forbids advertising cigarettes and alcohol, serving alcohol to juveniles and sale of cigarettes and alcohol to children in retail. Since the mentioned legal prohibitions are still not respected completely by every subject, and the children more and more consume alcohol and smoke cigarettes, and in the majority of restaurants and shops they are without any problem served and the shops sell cigarettes and alcohol, the Ombudsman submitted Information* to the Government on finding appropriate, efficient and easily applicable manners and methods for protection of children from use of alcohol and cigarettes and for detecting and punishing persons who provide the children with the opportunity to consume alcohol and smoke cigarettes.

Having in mind that during 2007, the preparation for changes and amendments to the Law on Protection of Children was in progress, the Ombudsman gave several proposals for implementation of the Convention for Children's Rights; more precisely for the treatment of children as separate subjects and holders of rights; then in connection to the provision of appropriate life standard, equal conditions for fulfilment of child allowance, defining the principle of non-discrimination of children and ban on discriminating children on any ground, as well as mechanisms and measures for protection in case of discrimination. At the same time, the Ombudsman gave other proposals for adding to the Law in order to create normative conditions for realization of other children's rights, guaranteed by the Convention for Children's Rights.

Education

The number of complaints received in the field of protection of education rights, especially in the higher education institutions in 2007 was increased in comparison with the previous year.



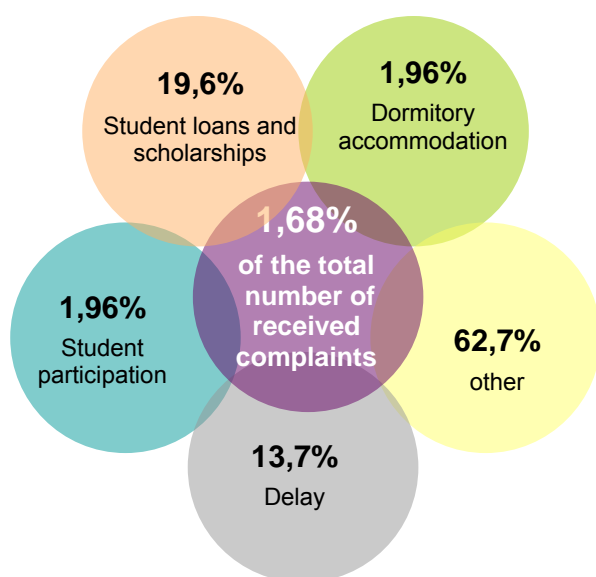
The majority of complaints referred to realization of the right to rewarding student scholarships and loans. In a part of these complaints the Ombudsman ascertained that by the Announcement for funding pupils and students and awarding student scholarships and loans for the academic 2006/2007, the right to equality of citizens was violated, since according to the announcement, scholarships can be awarded only to students at the state universities, which excludes the students at private universities.

Having in mind the fact that the Announcement was conducted, and according to the provisions of the Law on Higher Education and the Law on pupils' and students' Standard which state that the students are equal regardless of the status of the higher institution they study at, and that in practicing the right of scholarships all applicants should be treated equally, the Ombudsman implied to the Ministry of Education and Science to reconsider the

* Information on respecting the prohibition for serving and selling alcohol and cigarettes to children is available on the Ombudsman website

Announcement in accordance with the mentioned legislation and take appropriate measures in order to overcome this situation in future and create equal conditions for all students studying at recognized higher educational institutions without any discrimination.

A number of complaints referring to realization of the right for students or pupils scholarships or loans were submitted because although the applicants fulfilled the stated conditions for realization of this right, they were rejected as a result of lack of allocated means for this purpose. The Ombudsman intervened for all applicants fulfilling the conditions to realize this right. The Ombudsman also implied that rejecting students as a result of lack of means is not in accordance with the legislation. Additional means for this purpose were not approved and a number of applicants did not fulfil the right of scholarship or loan.



A group of high schools students addressed the Ombudsman who considered the conduction of legislative obligation to take a graduation exam violates their rights, because they were not informed of this obligation at the time the enrolled high school, claiming that the timely information would influence the preparation for taking the graduation exam at the beginning of their education.

Taking into consideration the Law on high Education, according to which the high school students take graduation exam, meaning a final exam, the Ombudsman requested information from the Ministry of Education and Science whether the exam curriculum for taking the graduation exam, the graduation exam Concept and the final exam were adopted.

The Ministry informed that all necessary

acts for the graduation exam were adopted, then that methodology check was performed through several trial graduation exams in every high school and the Education Development Department – Exams Section constantly conducts training of all personnel involved in the exam process. Finding that there is no violation of students' rights, the Ombudsman introduced the complainants with the Ministry's response.

The Ombudsman received a complaint by a larger group of citizens stating that by the amendments of the Law on Elementary Education, the especially talented children are deprived from the possibility to enrol an elementary school at an age younger than the stipulated one. Considering the fact that especially talented children should be treated in a special way and that they should be given appropriate possibilities in the educational

process as well, the Ombudsman requested from the Ministry of Education and Science to reconsider this issue, and the children who had already enrolled the schools, besides unfulfilling the age limit, remained in the schools. However, the Ombudsman reacted that the Law on Elementary Education contains precise provisions which do not allow the especially talented and over average intelligent children to enter the educational process earlier, because of which the Ombudsman requested form the Ministry of Education and Science to



pay special attention to the mentioned category of children, their treatment and creation of conditions and possibilities for their appropriate inclusion in the education and talent development.

Besides acting upon separate complaints, according to the Work Program*, the Ombudsman made an analysis of acts of the majority of universities in the Republic of Macedonia in 2007, regarding the realization of the right for the citizens having the status of students for post graduate studies in the process of preparation and defence of the magistrate paper. The Ombudsman found that the process before the Commission on evaluation and defence of the magistrate paper was not precisely defined and clarified in the legal and bylaw acts, nor in the universities' acts, meaning the faculties. As a result of that, the Ombudsman found several issues in terms of the practical work of the Commission and realization of citizens' rights. Another issue which occurred before the Ombudsman was the further actions of the scientific-curriculum boards at faculties in cases when the magistrate paper evaluation commissions, in their reports, give a positive grade and explanation for acceptance of the papers and submit them to the scientific-curriculum boards.

Namely, the Ombudsman found that the procedure for adopting the report by the scientific-curriculum board is not precisely defined and clarified as well, which results in cases when in spite of the positive report by the commission, the scientific-curriculum board does not approve the magistrate paper.

Although the Ombudsman took into consideration both the autonomy and the academic freedom of the universities, still it found that there must be certain rules which will enable undisturbed realization of constitutional and legal rights of the citizens, meaning rights which would not create inequalities in the realization of citizens' rights.

Hence, in order to avoid certain situations which restrict the realization of citizens' rights and create a possibility for subjectivity by the competent bodies or persons in charge in making decisions and acting upon citizens' requests, the Ombudsman implied to the competent bodies and institutions that it is necessary to define precisely certain provisions in the universities' acts, which are the basis for passing the acts at the faculties, and the faculties should clarify all issues referring to the procedure for defending a magistrate paper and provide normative conditions for realization of the citizens' legal rights, without a possibility for subjectivity and without creating a possibility for making irregular and illegal decisions only because of vague issues.

Consumers' rights

The analysis in this reporting period in terms of functioning and acting of the Ombudsman in the area of consumers' rights shows that in 2007 the number of complaints in this field decreased.

While acting upon submitted complaints, the Ombudsman, besides the written correspondence with the public administration bodies and other bodies and organizations with public mandate, continued the practice of immediate insights and direct telephone contacts in terms of establishing the real situation, which proved to be an efficient and faster way of overcoming the problems, meaning finding a solution for realization of citizens' rights.

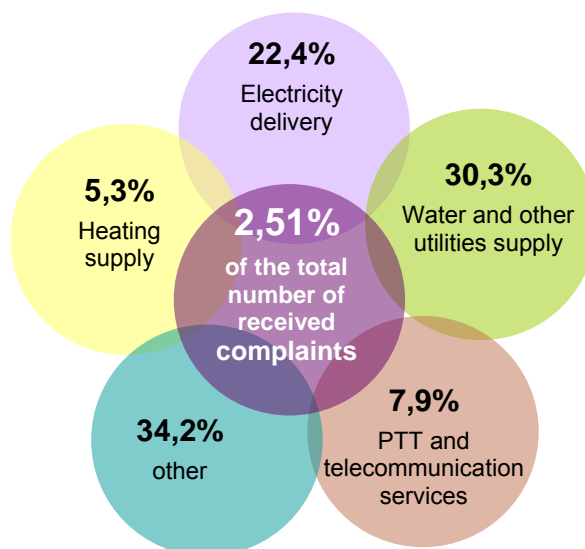


* Work Program can be found on the Ombudsman website

In terms of collaboration between the competent bodies and the Ombudsman in this field, besides the improved relations which continued in the report year (JSC “Toplifikacija”, PE “Vodovod i kanalizacija”, JSC “Elektrostopanstvo na Makedonija/EVN” – Skopje, PE “Komunalna Higijena”), a significant progress in cooperation with JSC “Makedonski Telekomunikacii” - Skopje was achieved. This company reacted on time and appropriately on the Ombudsman’s requests and implication in majority of cases.

The greatest number of complaints refers to the work of public communal enterprises, providing communal activity – water supply and drainage of urban waste substances.

Namely, the citizens’ complaints were about high amounts charged for used water because the citizens claimed that they had not used that quantity or about the irregular control of used water indicators and charging lump sums. At the same time, charging citizens with water fees for long ago obsolete bills continued, although appropriate procedures for forced payment had not been initiated. A part of the public enterprises on the other hand, did not issue receipts for paid water bills and charged the citizens for and obsolete debt, and the enterprise did not protect it self on time by filing a suite.



In such cases, the Ombudsman implied to the provisions for charges obsolescence and inability for forced payment, as well as to the illegal conditioning, meaning not issuing the requested bills to the citizens, which was accepted and this problems were overcome.⁸

In terms of telephone service charges, the citizens most often complained about high bills, which they considered unreal. After filing objections to the Commission, they telephone bills were corrected, which was especially obvious in terms of using internet services. However, regarding the accuracy check of the bills, the remark remains that technical and other possibilities for appropriate and real check lack, meaning ascertaining a possible abuse of subscribers’ numbers by other persons, indicated by the complainants themselves.

Regarding the services provided by JSC “Toplifikacija”, there were a small number of complaints about charging a debt of a previous user or flat owner or about lack of heating in certain residential objects. After the Ombudsman’s interventions, these problems were overcome in a fast and efficient manner, without any delays.

Regarding the services provided by JSC “Elektrostopanstvo na Makedonija – EVN” – Skopje, the citizens most frequently required free service because of their difficult material conditions. Most often it was about social aid users, who could not be assisted by the Ombudsman as a result of lack of legal grounds; so the Ombudsman could only intervene in terms of allowing the citizens to pay their debt in instalments without charging interest, which was accepted in majority of cases.

A number of complaints were received about not registering new users because of unpaid bills by previous owners or users of residential objects or about not connecting to the distribution network despite the electro energetic consent issued. After the Ombudsman’s

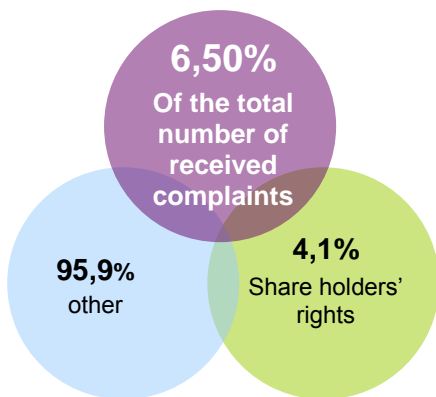
⁸ This problem is especially characteristic in Tetovo, for PCE “Tetovo” - Tetovo

interventions, the citizens realized their rights and were not charged for paying bills they did not use the services for, but were used by some previous user.

In this report period there were complaints about the services, meaning the rules of work at “Kosmofon”, but after the Ombudsman’s reaction, “Kosmofon” declared that it does not belong to the group of bodies and organizations the Ombudsman has the authority to act against. Taking into consideration the Law on Public Enterprises and the Law on Electronic Communications which are equally applied for the fixed-line public operator JSC “Makedonski Telekomunikacii” as well as mobile communications JSC “T-Mobile” – Skopje, both being providers of public communication services of public interest, the cooperation with these enterprises being on a satisfactory level, the Ombudsman found that “Kosmofon”, by rejecting the Ombudsman’s competences does not only violate citizens’ rights, but it also interrupts the functioning of this institution.

The Ombudsman informed the Ministry of Transport and Communications, the Electronic Communications Agency and “Kosmofon” about the attitude of this company, in order to provide realization of citizens’ rights.

Other Rights



In this field the Ombudsman acts upon complaints it is not competent to act, according to the regulated constitutional and legal competences.

In this report year, like in the previous ones, the citizens in their complaints requested protection of their rights violated by individuals or private legal subjects, which according to the Law on the Ombudsman is not within the frames of the institution’s authorities. However, in almost every case the Ombudsman, within the principles of being informed and giving legal advice, instructed the complainants, implying to the legal regime and manner of protection of their rights, about the possibility for them to address the competent bodies in order to solve separate problems, as well as the possibility to address a competent court.

Affirmed and planned activities



The Ombudsman affirms

In this report year the Ombudsman affirms that the number of complaints three years in a row maintains the same level, which implies to the fact the citizens still realize their rights with difficulties, but at the same time that they believe in this institution as a controlling system for protection of citizens' rights.

The work conducted shapes the following picture:

- Despite improved communication, there are still occasions of formal collaboration by the bodies the Ombudsman acts upon competently, as well as obstruction of this institution's work.
- Reform processes in the public administration were performed with great difficulties and slowly because of which it remains insufficiently functional and inefficient, with insufficient awareness of human rights and negligent and irresponsible work, because of which the citizens realized their rights with difficulties and delays.
- There is still no completed legal frame for discrimination protection and the process of appropriate and equitable representation of all communities' members in public administration, especially in public enterprises, happens with difficulties.
- while performing special police authorizations, especially by the members of the Special Police Unit for fight against crime, the Unit for Rapid Deployment, as well as the inspectors in external offices of the interior affairs sectors there were still cases of encroachment of functions by excessive and unprofessional use of enforcement measures, which led to violation of human rights.
- in spite of the improved formal collaboration, the Interior Control and Professional Standards Sector in this report year continued the practice of concealing oversights in police actions in certain cases, which resulted in revealing unprofessional attitude to the function of an interior control mechanism.
- Cases of violation of constitutional and legal principle for presumption of innocence guaranteed by the European Convention for Protection of Human Rights and Fundamental Freedoms were registered.
- in the field of citizens conditions at the Ministry of Interior Affairs it was noticed that citizens could realize their rights in an easier way, as a result of good cooperation with the competent department.

- In court procedures the citizens faced great difficulties in approaching justice in an efficient and timely manner.
- In the penitentiaries there are still extremely poor accommodation conditions and overcrowding, an organized way of health protection lacks, there is personnel deficiency as well as unprofessional work, which represents an inhumane treatment of confined persons. The fact that re-socialization programs are not adopted is worrying, which is a fundamental prerequisite for realization of punishment causes.
- Another worrying fact is the unserious treatment and the slow pace of denationalization process which is still far from being completely finished because of bad organization of commissions, as well as the extreme inaccuracy and non-coordination of all bodies involved in this process, which results from inefficient, bureaucratic and unprofessional work.
- Property-legal relations are characterized by procedures with unequal treatment of citizens, illegal detraction and limitation of the property right, as well as obstruction the Ombudsman's work.
- In the field of building and spatial planning, the citizens' interest for human life and work as well as the rational use of space in the process of passing detailed building plans were neglected. The procedures were characterized by imprecise conduct of legal legislation and absence of preventive activity by the inspection bodies.
- despite the crucial meaning of the environment for the citizens' life and health, the situation, unfortunately, remained unchanged which is a result of insufficient care by the competent bodies, as well as the fact that the local government is not prepared to answer the seriousness of the problem.
- In the field of labour relations, the illegal conduct of employment procedure and repositioning by the employers was obvious, as well as the subjective decisions by second instance bodies acting upon appeals.
- In the area of housing, as a result of irregularities in the appointing process, the citizens entitled to this right remained unsecured.
- In the field of realization of social rights, the administration remained inefficient and unprofessional, and the citizens, especially the socially endangered categories, faced difficulties in realization of their rights in the process of compiling the required documents, which in certain cases could have been done officially by the bodies themselves.
- Although there was an improvement of the competent bodies' efficiency, in realization of rights in the field of pension and health insurance there is still delay of procedures, as well as illegal and inappropriate behaviour by some bodies.
- Children and their best interest were not, once again, a priority in creating policy and acting of the competent bodies in deciding upon issues referring to their rights and interests. At the same time, children are still victims of family abuse and violence in schools, in spite of undertaking certain actions.
- Equal conditions for all students in terms of realization of a part of their rights in higher education are still not secured, and there is not enough concern about the students' standard.
- A number of public enterprises, being service providers, which did not protect themselves on time from users who do not pay their bills on time, apply illegal

measures for payment of debt, which in most cases are obsolete and at the same time prevent the citizens in realization of some other rights.

What follows

Being led by the mentioned situations, in order to provide undisturbed realization of citizens' rights, the following is necessary:

- Crucial and objective cooperation of the bodies the Ombudsman competently acts upon and appropriate respect of addressed requests and interventions;
- Finalizing the initiated reform process of the public administration for responsible, diligent and timely actions'
- Passing a system law on Protection from Discrimination and strengthening of the educational component of the employees at the competent institutions in terms of acting upon cases connected with inequalities of the citizens;
- Removing the obstacles for realization of the constitutional principle of appropriate and equitable representation of all communities' members in the central local government bodies, in public institutions and services, and especially in public enterprises;
- Effective education of police officers in order to provide professional work performance of police activities, so that violations of human rights can be completely prevented;
- Legal, professional, unbiased and responsible work of the Internal Control Sector in the process of ascertaining responsibility for encroachment of functions by conducting thorough investigations;
- Appropriate respect of the constitutional and legal principle of presumption of innocence, guaranteed by the European Convention for Protection of Human Rights and Fundamental Freedoms;
- Continuation of taking measures for improvement of realization of citizens' needs referring to their citizen conditions/status and the rights deriving from them/it;
- Permanent monitoring of domestic and international regulations, application of decisions by the European Court for Human Rights, continuous education of the judges and public prosecutors and improvement of work conditions, especially of the public administration;
- Appropriate realization of penological standards in terms of the treatment of convicted and detained persons, so that the problems can be overcome, especially with reference to the over-crowdedness and stay conditions, as well as realization of the guaranteed rights, which is a prerequisite for application of principles of legality, humanity and individualization towards confined persons;
- A serious approach towards procedures for final closing of the denationalization process, by appropriate respect of the legal regulations;
- Elimination of unequal treatment of citizens in the field of property-legal relations, simplification of procedures, introducing new technology, establishing a cadastre office on the complete territory of the Republic, strengthening human resources, improvement of communication and efficient acting by the Cadastre upon citizens' requests, as well as non-obstructing the Ombudsman's work;

- Satisfying citizens' needs in the process of preparation and passing of the building plans through securing rational use of space and conditions for human life and work and enlarging the preventive activity of the inspection departments, so that illegal construction activities can be prevented;
- A bigger activity by the competent bodies and the local government in protection of the environment, monitoring the pollution, increasing the ecology awareness of the citizens, as well as a compulsory foundation of regional landfills where the ecology standards will be respected for protection of the environment media;
- Respecting legal provisions in the employment procedure with estimating applicants' professionalism and competence, adhering to the legal procedure in positioning public servants and objective decisions by the second instance bodies;
- Passing a Law on Housing with precise definitions on general and special conditions for appointing flats in state property for rent, in order to make the conditions and criteria objective, especially for the socially endangered categories without secured homes;
- Simplification and acceleration of procedures for realization of social protection rights and application of all legal possibilities by the competent bodies for gathering the required documents by official duty, especially for the socially endangered citizens;
- Appropriate application of economy and urgency of procedures and of protection of clients' rights in realization of pension and health insurance rights.
- Children should have priority and should be treated as separate subjects with rights and obligations, respecting the principles: indiscrimination, their best interest and participation in making decisions referring to their rights and interests and undertaking all possible measures for protection of children from violence and abuse;
- Securing equal conditions and possibilities for education in elementary, high and higher education;
- Respecting the legal provisions in obligating the citizens to use services from public enterprises and eliminating the ungrounded and illegal obstacles in realization of consumers' rights.

What is to be done in 2008



Monitoring the situation of realization of freedoms and rights on every level, as well as ascertaining the conditions for executing the detention measure and the level of realization of the non-discrimination principle and appropriate and equitable representation of communities' members. These are only some of the activities planned in the Work Program the Ombudsman is going to conduct in 2008. Special reports and information will be prepared for them and they will be submitted to competent institutions, and then they will be available to the public through the website, in order to give information on the situation in these fields.

The Ombudsman will attempt to ascertain the process of registering children in the birth records, and special attention will be paid to education of children in elementary and high schools about their rights and obligations, with a special accent on protection of children from children trafficking and use of alcohol and cigarettes.

In order to confirm the way of work of the public administration on the principle of judging in a reasonable time frame, the Ombudsman will visit some of the courts in 2008.

Protection of the environment will be in the centre of the Ombudsman's attention this year as well, especially in terms of respecting the legal provisions for waste management.

Special attention will be paid to informing the citizens about the competences of the Ombudsman through a media campaign supported by the OSCE Mission and the Swedish International Development Agency SIDA. The citizens of several places in the state will be able to become informed on how and for what issues the Ombudsman can assist in terms of realization of their guaranteed rights, during the Ombudsman's open days.

In 2008 the dialogue between the local government and the Ombudsman will continue by two round tables in Kicevo and Bitola, where the level of mutual collaboration and possibilities for improvement will be discussed.

Building institution capacities trainings will continue in 2008. The international cooperation with the Ombudsman institutions in the region, member countries of the EU and wider will not be omitted, while exchange of work experiences will be realized through a study visit to the Polish Ombudsman office.

From the Practice

NP no. 1904/05

The complainant requested an intervention by the Ombudsman to the Ministry of Transport and Communications for accelerating the procedure for repurchase of a flat owned by the state. On the basis of a decision by the Pension and Disability Insurance Fund, in 1992, his mother made a Contract for using a flat with the Joined self-government community of the city of Skopje, and the complainant at that time used the flat as a part of the family household.

The complainant submitted a repurchase request to the Regional Office for transport and communications Chair at the Ministry of Transport and Communications in 2006, along with repurchase approval, evaluation of the price and a certificate by JSC "Komerčijalna Banka" – Skopje that the repurchase price was completely paid.

According to the information in the complaint, the case, along with the required documents was submitted to the Ministry of Transport and Communications, and it was waited for an unjustified period of time to be signed by the Minister.

By addressing the competent department at the Ministry, the Ombudsman implied that the repurchase procedure was delayed without reason having in mind the fact that the complainant completely fulfils the conditions applicable for repurchase of a flat by the Law on Sale of flats owned by the state.

During 2007, the Ministry of Transport and Communications informed the Ombudsman that as a result of its intervention, the complainant would be issued a decision for transfer of tenancy right as the first step in the repurchase procedure.

NP no. 946/07

The complainant required from the Ombudsman to take actions before the competent second instance administrative body because she still had not received a declaration upon appeal against a decision which, by the Survey and Cadastre Department, validated her request and stated the contents of real state in a newly formed property certificate for KO Centar II, despite a long period of time passed.

Acting upon this case, the Ombudsman ascertained that it was about violation of constitutional and legal rights of the complainant, on the basis of complete disrespect of legally stated time frame for reaching a decision.

Besides, it was also ascertained that the appeal was by a person who, according to the provisions of the Law on General Administrative Procedure and the Law on Survey, Cadastre and Registration of Real Estate Rights, in the mentioned administrative procedure can not have the character of a party.

Taking into consideration the ascertained situation, the second instance Commission for deciding in administrative procedure upon cases in the filed of survey, cadastre and registering of real estate rights at the Government of the Republic of Macedonia, the Ombudsman implicated to priority consideration and making a decision for the case and adopting a decision which would reject the appeal as not allowed. The implication was accepted.

NP no. 192/07

The Ombudsman launched an own-initiative inquiry based on a newspaper article and information on a local radio station for ascertaining discrimination of a number of Roma people by prohibiting them to enter restaurants in Shtip. During the inquiry, the Ombudsman submitted a request to the Basic Public Prosecution Office in Shtip for confirming liability

of restaurants' owners in Shtip who, by their conduct, performed a criminal activity against human and citizens' freedoms and rights, stated and sanctioned in article 137 of the Criminal Code.

Acting upon the Ombudsman's request, the Basic Public Prosecution – Shtip issued a decision for rejecting the criminal charges against persons in charge of the objects in Shtip, as a result of not ascertaining elements of the alleged criminal action. The Ombudsman directed the discriminated citizens to continue the criminal prosecuting by private charges, and it also informed them about the possibility for international court protection before the European Court of Human Rights.

Because of lack of a special Law on Protection from Discrimination which would precisely define the term "discrimination" and the body which would be competent in taking certain measures for eliminating the discriminatory behaviour consequences, as well lack of courage by the competent bodies in charge of providing discrimination protection and not abiding the decisions by the European Court for Human Rights, unfortunately, the attempt for ascertaining discrimination and sanctioning the doers remained unsuccessful.

NP no. 1062/07

A complainant from Skopje requested intervention in protection of labour relations rights because of non-acting by a first instance body, the Customs Management at the Ministry of Finance after reaching a decision by the competent second instance commission, regarding a conducted illegal repositioning of the complainant.

Acting upon the complaint in the course of which the first instance body was informed that repositioning was performed against the legal provisions, as well as that the act by which repositioning was performed was annulled by the competent commission and was considered nil, meaning it was without legal force, the body informed the Ombudsman that it was acted upon the complainant's implication and that the complainant was repositioned to a post she had been appointed before passing the repositioning decision.

NP no. 819/07

Citizens from Bor – Republic of Serbia submitted a complaint because after submitting a request to the Pension and Disability

Insurance Fund in Macedonia for realization of pension and years of service right fulfilled in the Republic of Macedonia, there were decisions reached, but their pension was not paid even after several years.

Acting upon the complaint, the Ombudsman requested from the Pension and Disability Insurance Fund to give information about the reasons for not paying the pension amounts, meaning whether a decision was adopted by the Serbian competent body and whether the request for paying the damage was settled for the Serbian insured person in accordance with the provisions from the Agreement for Social Insurance of both countries, and it that was the case, which measures were taken by the Fund to protect the clients' rights.

According to the information from the Pension and Disability Insurance Fund, until the Serbian competent body reached decisions for lowered pension amount excluding the Macedonian years of service, the Fund could not pay the pension amount, because according to the Social Rights Agreement, refunding the means is required as Serbia was paying for years of service in Macedonia, which were calculated.

In order to realize the complainants' rights, although the Ombudsman is not competent to intervene on foreign bodies, but for the reason of accelerating the procedure, there was a telephone intervention to the competent body for pension insurance of Serbia in Bor, after which decisions were adopted stipulating a new amount of pension according to their years of service and the Pension and Disability Insurance Fund in Macedonia paid the pension amounts from Macedonia.

NP no. 1596/07

A lawyer from Kavadarci, having the power of attorney from several citizens from Kavadarci, complained to the Ombudsman on the following: although the citizens had decree absolute by an authorized executor, on the basis of which completion of payment for contribution, they could not realize the right of pension and disability insurance because the Pension and Disability Insurance Fund rejected acting upon the mentioned executive court decrees, although the M-8 forms for additionally paid contribution were submitted by the employer.

Acting upon the Ombudsman request, the Fund submitted information that they did not act upon the court decisions because the interest was not paid; although the decrees did not define that interest and did not stipulate it as debt.

In order to clarify this issue, especially because the decrees did not include the interest, the Ombudsman had a consulting meeting with persons in charge and the Pension and Disability Insurance Fund of Macedonia. At this meeting it was pointed out that it is not in accordance with the law to require execution of decisions without a court decree and that the decrees should be executed as they are and the insured persons should be recognized their years of service the completion of contribution payment was done for. In that sense, the Fund formed an attitude that in cases when the employers acted upon court decrees and paid the contribution, the years of service and the salary the contribution was paid for to be registered. At the same time, in cases when the employer paid only the contribution, but not the interest, a decision to be reached based on official duty, for indebting the employer to pay the interest, and the insured person, if fulfilling the legal conditions to realize the pension right by the completed payment for contribution, meaning the years of service the payment was done for to be registered.

Taking into consideration this attitude by the Fund which is in accordance with the legal legislation, the Ombudsman once again requested from the Regional Office of the Fund to take measures for registering the years of service for the mentioned persons the contribution was completely paid for, and to reach a decision for indebting the employer to pay the interest or to file court charges again in order to charge the interest. Measures were taken upon this request by the Ombudsman, and the complainants realized their rights, in accordance with the legal regulations.

NP no. 2501/07

A citizen from Skopje complained to the Ombudsman because the Faculty he was studying at acted against the Law on issuing vouchers, because the appointing lists were compiled not only based on the Law conditions, but an additional condition was taken into consideration and that was the students' academic results.

Acting upon the complaint, the Ombudsman found that it was not acted in accordance with the Law on issuing vouchers, according to which the issuing should be conducted for purchase of computers for the needs of every student having the citizenship of the Republic of Macedonia, who enrol the first year of studies for the first time in the academic 2007/2008 at the higher education institutions in the Republic of Macedonia. Distribution of vouchers at the higher education institutions was

conducted according to a prepared list by the Ministry of Education and Science, according to the percentage of full time students who enrolled the first year for the first time in the academic 2007/2008, out of the total number of enrolled students for the first time in the final studies year, in the academic 2007/2008 at the higher education institutions in the Republic of Macedonia.

The Ombudsman found that the students who enrolled for the first time their final year in the academic 2007/2008 were the only ones entitled to the basis for realization of the right for a voucher. Other additional prerequisites were not stipulated, nor an opportunity for the higher education institutions or the competent ministries to provide additional criteria for realization of the mentioned right.

In order to protect the complainant's right, as well as the right of the other students, the Ombudsman both in oral and in written manner addressed the Ministry of Education and Science and the Faculty the complainant studied at, implying that it is not in accordance with the Law to take into consideration the academic results of the students as one of the prerequisites for receiving a voucher, because that kind of prerequisite was not stipulated by the law and that by including this prerequisite, a part of students are restricted from realization of this right, although they fulfil the legal prerequisites for receiving a voucher.

Acting upon the Ombudsman's implication and request, there was an information addressed to the Ombudsman that the criteria of academic results or some other criteria not stipulated by the law were no longer utilized, but the vouchers would be distributed at the principle of "first come, first served". At the same time the Government decided to provide means for distributing vouchers to all students fulfilling the stipulated prerequisites, meaning they made appropriate amendments and clarifications of the Law.

NP no. 2119/07

A complainant addressed the Ombudsman about violation of his son's rights by the high school he studied at, because when enrolling the third year, he was not liberated from paying enrolment fee in spite of the unfavourable financial situation of his family, because the parent had been told that his son would not be allowed to enrol.

Acting upon the complaint, the Ombudsman addressed the competent department at the Ministry of Education and Science and the high school head teacher,

implying to the need for liberating the student from paying the enrolment fee and providing him with an opportunity to continue his studies.

Acting upon the request, the Ministry of Science and Education informed the Ombudsman that appropriate information was sent to the high schools, listing the cases when students should not be obliged to pay enrolment fee, one of them being the unfavourable material situation. It was obvious that the school did not respect the information, but after the Ombudsman's interventions, the complainant's son was liberated from paying the fee, and continued his studies.

NP no. 798/07

The first children's World Embassy "Megasi" in Skopje, submitted a complaint requesting protection of rights of a juvenile who lived with his deceased mother for several days and did not attend classes, but no one reacted and no measures for protection and care of the child were taken. The Ombudsman addressed the competent inter-municipal social welfare centre and the Public Institution for homing children with raising-social problems – Skopje, where the child was temporarily accommodated and requested information on the child's accommodation, his psychological condition, as well whether professionals worked with the children in order to facilitate the overcoming of the shock the child had.

At the same time, the Ombudsman conducted an insight and an official discussion with the head teacher and the class teacher in the school the child studied at, implying to the need for monitoring the pupils' attendance and a higher care for the situation and social problems of the children, so that the competent institutions can react on time in order to provide appropriate and prompt protection of children.

Finding that it is not the most appropriate solution for the child to be accommodated at a Public Institution, the Ombudsman requested from the Social Welfare centre to reconsider the possibility for accommodating the child in a fostering family which would be offered appropriate conditions and through which, in coordination with the competent professional teams, the emotional and psychological situation of the child would be overcome.

Acting upon the Ombudsman's requests and implications, the child was only temporarily accommodated at the Public Institution under permanent monitoring by the Social Welfare Centre. Further on, since the Social Welfare Centre found that it was not the best solution for the child to be placed at the mentioned

institution, it reached a decision to accommodate the child at the SOS – Children Village in Skopje. In order to overcome the possible stress, multiple checks of health and psychological aspect were performed, and family therapy teams were included as well. Later, the child was included in the regular education where the educational process continued without any difficulties, which was confirmed for the Ombudsman by the "mother" taking care of the child.

NP no. 1308/07

The Ombudsman launched an own-initiated inquiry for reconsidering a case in a village near Prilep, in order to provide protection of rights of a child, who, according to the information placed in certain media, was a sexual abuse victim by another juvenile from the same village.

Taking into consideration that the case was about children, meaning a child who is not liable to crime and a child victim, the Ombudsman requested from the competent social welfare centre to take actions towards the child-doer and the child-victim in order to ascertain the reasons for the inappropriate behaviour of the child-doer so that the child would not do such deeds in future; and to take special measures towards the child-victim in order to provide overcoming of possible trauma the child had undergone. In this direction, the Ombudsman requested from the Centre to work with the both families, in order to assist in a professional or any other manner, to monitor the parental right in both families and if needed, to take other measures if the reason for such behaviour was the inappropriate behaviour of the family, their carelessness etc.

Acting upon the Ombudsman's requests, the Centre informed the Ombudsman that several activities and measures were undertaken for ascertaining the factual situation, followed by issuing a warning for practicing parental right for the child-doer's mother. After additional requests by the Ombudsman for further work with the families, and whether appropriate work with the child-doer and the child-victim was provided, there was information that the Centre's professional team continued providing professional psycho-social aid and support for the juvenile-doer and his family, and it also continued taking appropriate measures for helping and protecting the child-victim and his family.

NP no. 2171/07

A citizen from Skopje complained to the Ombudsman requesting protection rights violated by JSC "Toplifikacija" – Skopje and "Elektrostopanstvo na Makedonija – EVN" – Skopje. The reason was that she was charged with electricity and central heating bills she had not used, meaning the bills were related to the previous user of the flat, and she had not been registered as a new service user.

Acting upon the complaint, the Ombudsman found the complainant's rights were violated because; taking into consideration the debt for electricity and central heating belongs to the previous owner of the flat. So the Ombudsman requested from the abovementioned public enterprises not to indebted the complainant and to make changed of user in the bills for electricity and central heating.

The Ombudsman's implication was accepted both in terms of user change and liberation of debt because it was not made by the complainant.

NP no. 447/07

A complainant from the village of Opae, Kumanovo region, stated that JSC "Makedonski telekomunikacii", Regional Office – Kumanovo, indebted him with telephone bills in a period when he was objectively not able to use the services because of the military activities in the Republic.

The Ombudsman conducted an inquiry on the spot and found that there was no telephone network, meaning JSC "Makedonski telekomunikacii" does not provide services which could be charged. For that reason, the Ombudsman addressed JSC "Makedonski telekomunikacii" - Skopje in a written form, submitting photographs taken during the inquiry.

In this regard, the Ombudsman requested from the enterprise not to charge the complainant for services he did not use, which was accepted and the debt was cancelled, and the request of the complainant for installing a telephone connection and use of the services provided by JSC "Makedonski telekomunikacii".

NP no. 2029/06

The Ombudsman received a complaint from a woman's husband because his wife's right for social financial aid through a decision by the Social Welfare Centre was annulled, with an explanation that her husband was employed

according to data received by the Employment Agency.

Acting upon the complaint, the Ombudsman conducted an inquiry and found that data given by the Employment Agency was not correct, which was confirmed by the State Inspectorate at the Ministry of Labour and Social Policy. Because of that, the Ombudsman ascertained ungrounded deprivation of the social financial aid right, based on incorrect data by the Employment Agency.

After the Ombudsman's activities, the client's husband was reregistered in the unemployed list, because of which the Ombudsman recommended the Ministry of Labour and Social Policy to reconsider the issued first instance decision, according to which the right of using social financial aid was annulled, having in mind the confirmed fact that the Employment Agency gave incorrect data, and reach another decision which would recognize the client's right of social financial aid, starting on the day it was annulled without any grounds.

After the implications, conducted inquiries at the Ministry of Labour and Social Policy – Skopje and additional implications, the appeal was not accepted due to submitting it after the deadline.

However, the Ombudsman continued the procedure and requested, by official duty, reconsideration of decisions reached and in case there were no other evidence which would restrict the realization of social financial aid right, the payment to be continued.

No actions were undertaken upon the recommendation. The Ombudsman informed the minister of labour and social policy on this issue twice, and additionally conducted several more inquiries at the Ministry of Labour and Social Policy.

After several interventions by the Ombudsman, the Ministry of Labour and Social Policy, by official duty, reconsidered the case and found that the conditions for repeating the procedures were fulfilled and reached a positive decision for accepting the appeal, explicitly stating in the explanation that it follows the Ombudsman's recommendations, as the basis for repeating the procedure and realization of the right of social financial aid.

NP no. 2091/07

A citizen from Skopje complained to the Ombudsman because the inter-municipal social welfare centre at the city of Skopje, without grounds stopped the financial compensation right for being helped and taken care of by another

person, because, allegedly, she did not submit the relevant documents for deciding upon the request on time.

Dissatisfied with the mentioned decision, the client appealed, and no actions were taken in a long period of time.

Acting upon the complaint, the Ombudsman implied to the Ministry of Labour and Social Rights that the client submitted the required documents on time, by post, for which there was an appropriate proof and requested while considering the appeal that fact to be taken into consideration, as well as reacting in the legally stated timeframe.

Acting upon the Ombudsman's implications, the Ministry verified the appeal and the decision explicitly stated that one of the bases for verifying the appeal was the Ombudsman's implication.

In this case, the willingness of the competent bodies to admit their mistake and to respect the Ombudsman's recommendations and implications was obvious, which contributes to a faster and easier realization of citizens' rights, without conducting judicial or further administrative procedures.

NP no. 1470/07

A complainant from Gostivar alleged violation of rights by the Health Insurance Fund, Regional office – Gostivar, because of non deletion from health insurance as an insured person on the basis of performing individual activity and non-conducting the registration based on registered unemployment at the Employment Agency.

From the allegations it was found that the complainant by the previous bases had unpaid contributions for health insurance, as a result of which he did not receive blue cards and that he had a decision by the Regional Craftsmen Chamber for ending craftsmen activity conduct, and from the Central Register of the Republic of Macedonia, the craftsmen shop was deleted from the records.

Informing the Regional Office of the Fund in Gostivar, the Ombudsman implied that there was no legal basis because of unpaid contribution from the previous basis, which ended, the right of being insured on another basis the contribution is regularly paid for not to be recognized, and that the Fund can initiate appropriate procedure for forced payment for the unpaid contributions. Because of that, the Ombudsman requested execution of the deletion of the previous basis and accepting the application on the basis of unemployment, for

which the agency regularly pays the contributions to the Fund.

The Ombudsman's implication was accepted and the complainant realized his right.

NP no. 2815/07

A citizen from Kicevo complained to the Ombudsman because although for giving blood he was liberated from health services expenses, based on an interior act by the Public Health institution, he was charged with a certain amount of expenses for hospital treatment, allegedly for prevention from contagious diseases.

The Ombudsman ascertained that the mentioned contribution is paid by all users of health services at the mentioned health institution, independently of whether they are liberated or not from paying treatment or other services expenses.

Having in mind that introducing this kind of compensation does not have a ground in the legal regulation, the Ombudsman submitted a recommendation to the health institution, and informed the Ministry of Health and the Health Insurance Fund on the case as well, after which the management body of the health institution accepted the Ombudsman's implication and immediately reached a decision for changes in the Pricelist for services that citizens pay privately.

The mentioned decision contains a separate article which annuls the provision which introduces paying the mentioned contribution, and another article which states that the change in the Pricelist was reached on the basis of the Ombudsman's implication.

NP no. 2045/07

A complainant from Tetovo filed a complaint alleging injury of its rights by the Sector of Urbanism (Tetovo) in the procedure of issuing an extract from the detailed spatial plan.

The first instance body did not accept the recommendation of the Ombudsman by which it was requested to issue an extract of the applicable detailed spatial plan enacted and in force in 2005. Instead, the complainant was issued an extract from the plan enacted in 1973. Acting upon the complaint of the complainant the minister for transport and infrastructure accepted the complaint and annulled the decision of the first instance body. In the repeated procedure, the first instance body issued an extract of the applicable in force detailed spatial plan by which it confirmed the recommendation of the Ombudsman.

NP no. 1955/07

A complainant alleged violation of rights in a procedure upon administrative acts passed by the Mayor of the municipality of Karpos, for removing a part of a fence wall, which partially deviated from the building permission dimensions.

Acting upon the complaint, the Ombudsman requested from the Mayor of the municipality of Karpos to stop the execution of the forced execution procedure for a certain period of time until a decision upon appeal was reached by the second instance body and a decision was made by the competent body for awarding building land for complete forming of the construction allotment, in order to avoid causing irreparable damage by the premature removal of the object.

Passing the new detailed spatial plan was the basic reason for the Ombudsman to utilize this instrument, and it was founded on the forthcoming procedure for passing a new detailed spatial plan which would create real presumptions for remaining of the object.

NP no. 672/07

The regional office of the Ombudsman in Bitola launched an own-initiated procedure after the media had found restriction of citizens' right to having documents containing the address "Prva" street, where they lived/resided.

The regional office in discussions with employees at the municipality of Bitola requested a list of streets in Bitola which had been omitted in the computer updating procedure by the interior issues body in Bitola.

After submitting the list to appropriate institutions in Skopje, the Citizen Issues Department at the Ministry of Interior Affairs informed the Ombudsman that the newly submitted list of streets submitted to the State Statistics Bureau contained omitted streets ("Prva", "Bezisten" and "Pelagonija") and that they were included in the information system of the Ministry, which meant the Interior Affairs Sector – Bitola could issue documents including the listed streets.

NP no. 1471/07

A citizen from Kicevo requested an intervention by the Ombudsman based on acquiescence by the Basic Court Skopje II – Skopje upon bankruptcy application for HUP – "Metropol" – Skopje in a bankruptcy procedure

initiated by a Decision on debt payment stated in it, in November 2001.

During the procedure the court and the trustee of bankrupt's estate claimed that the payment was performed, as a result of which the Ombudsman requested a proof for that claim.

Further on in the procedure, after confirming that the payment had not been performed, the Ombudsman requested from the bankruptcy trustee to take immediate actions upon the decision, which was accepted, so by a payment order the complainant's request was fulfilled.

NP no. 2411/07

A complainant from Bitola submitted a complaint to the Ombudsman requesting intervention due to unreasonable delay in extra-judicial procedure before the Basic Court in Kumanovo.

In the course of the procedure it was ascertained that the delivery of the court invitation was the reason for the delay due to material problems which the basic Court in Kumanovo was faced with for a longer period of time.

The decision of the court was anyhow delivered to the party-submitted of the complaint with the help of the Office of the ombudsman in Bitola.

NP no. 1471/07

A complaint was submitted by a mother of a juvenile from v. Volino - Ohrid, alleging that police officers from the Interior Affairs Sector in Ohrid violated the juvenile's freedoms and rights.

During the procedure, the Interior Control and Professional Standards Sector did not ascertain responsibility with the police officers, in spite of the fact that the Ombudsman collected substantial material and verbal proofs implying to a founded suspicion that they had violated the juvenile's rights.

Because of a grounded suspicion that while taking police authorizations the police officer applied force and forcing means in order to force the juvenile to confess performing a punishing activity, the Ombudsman submitted a request for initiating a procedure for ascertaining punishing reliability for conducting a criminal act Torture and other cruel, inhuman or humiliating conduct for four police officers at the Interior Affairs Sector in Ohrid, based on article 142, paragraph 1 of the Crime Regulations of the Republic of Macedonia.

After the Basic Public Prosecution in Ohrid had confirmed the Ombudsman's request to be founded, it requested an investigation by the Basic Court in Ohrid for the suspected police officers, based on founded suspicion for conducted punishing activity against human freedoms and rights.

NP no. 1972/07

A citizen from Skopje complained that the Health Insurance Fund of Macedonia refused signing a contract with the Health institution she was the main activity holder at, only because she fulfilled the conditions for realization of the right to age pension, meaning she was receiving pension.

According to the Ombudsman, this attitude of the Fund restricts the right to work for persons receiving pension, but most of all for the insured persons to choose a doctor, meaning a health institution where they can be treated.

The Ombudsman addressed an implication to the Fund that it acts against the legal and by-legal regulations because neither the Law, nor the by-law states the age limit or the pension beneficiary status as criteria or conditions for signing or not signing a contract. However, the Health Insurance Fund of Macedonia states this criterion in the contract which is offered to the health institutions. That means that the contract itself states an additional criterion which is a prerequisite for signing or not signing the contract.

In spite of the implications that the Fund introduces an additional criterion for deciding, which is not stated neither in the Law nor in the by-laws, the Health Insurance Fund did not change its attitude and refuses to sign a contract with private health institutions in case the main activity holders fulfil the pension conditions or in case they realize this right.

The Ministry of Health agreed with the Ombudsman's opinion and it implied to the Fund that it acts illegally. However, the Fund, revoking its discretion right to decide on who to sign a contract with, did not change its attitude and continued refusing contract requests from health institutions in which main activity holders fulfil the pension conditions or in case they realize this right.

The Ombudsman stopped the procedure because the complainant initiated a court procedure.

NP no. 1551/04

The Ombudsman received a complaint upon which the first instance administrative body was given a recommendation for priority acting and deciding upon the case. The recommendation stated that the case was about conduct against the provisions of the Law on Denationalization and the Administrative Procedure Regulations.

Based on the recommendation, the Denationalization Commission did not inform the Ombudsman at all about measures undertaken, although it was intervened on several occasions and an insight was performed in the case documents, which lead the Ombudsman to confirm, without doubts, that not a single action was taken, and the clients had completed the request with all evidence needed.

The Minister of Finances was informed on this case, as well as on many other cases and he did not take any measures.

Besides this, in accordance with the competences, the Ombudsman continuously took activities before competent state bodies, during which, among other issues, informed the presidents who managed and still manage the mentioned commission on several occasions, as well as the Government of the Republic of Macedonia and requested, within the authorizations frames, to take activities for conducting the Ombudsman's reports, meaning to respect their contents.

At the same time, the Ombudsman informed the Parliament of the Republic of Macedonia in an annual report, about the confirmed general conditions and the level of providing respect, promotion and protection of constitutional and legal rights of the citizens.

Instead of respecting the Ombudsman's interventions, there were cases of indecent behaviour by certain commissions' secretaries.

NP no. 535/07

A complainant requested an intervention from the Ombudsman for protection of his rights, violated by the Ministry of Agriculture, Forestry and Water Economy because the farming land, owned by the state, was not registered under his ruling, based on a signed agreement.

Following the Ombudsman's intervention and the survey conducted by the State agriculture Inspectorate at the Ministry of Agriculture, Forestry and Water Economy – the Regional Office Shtip registered the land under the complainant's ruling, so he fulfilled his right.

NP no. 2410/07

A complainant stated that his averaged vehicle was removed by a communal inspector from the Municipal Inspectorate – Bitola in a police officer's presence. During removal, his car was damaged. The complainant also stated that no report for the activities on the spot was compiled, which would confirm which activities and damages were done to the vehicle during removal, as a proof for requesting average damage compensation.

After ascertaining the situations and submitting an implication by the Ombudsman to the communal inspector at the Municipal Inspectorate – Bitola that the conducted inspection the inspector is obliged to compile a report and to submit it to the physical subject he inspection refers to, the communal inspector acted upon the implication and compiled a report.

NP no. 2879/07

A complainant stated disrespect of a judicial settlement reached before the Basic Court in Struga by the Municipality of Struga.

After the Ombudsman had ascertained that the judicial decision was not respected, it addressed the municipality implying that the municipality is obliged to conduct the settlement reached before the abovementioned court.

Following the Ombudsman's intervention, the competent bodies undertook actions and realized the judicial settlement.

NP no. 396/07

A complainant requested intervention of protection of her rights arising from employment relations injured by the acting Director of the Public health Institution Zdravstven Dom – Kriva Palanka. After careful determination of the facts, the Ombudsman sent a recommendation requesting the acting Director of the Public health Institutions Zdravstven Dom – Kriva Palanka to allocate the complainant to a position in accordance to the law.

The acting Director of the Public health Institutions Zdravstven Dom – Kriva Palanka, based on the recommendation, has deployed the complainant from a position of senior nurse in the emergency services to a position of Chief

Nurse in the institution, position commensurate to her education and professional background.

NP no. 1166/07

A complainant requested from the Ombudsman an intervention for protection of its rights arising from employment relation.

In the complain, the complainant stated that with a decision brought by the director of the Public Revenue Office, the complainant was deployed from the position of chief of sector to a position of counsellor for personal and general services in the PRO - Regional Directorate Tetovo.

Not being satisfied with the decision brought, the complainant filed a complaint to the Agency for State Officials that deemed the complaint as valid, annulled the decision and returned the case for re-consideration. However, even after 8 months, the Public Revenue Office did not enforce the decision.

On the request of the Ombudsman to be involved and kept informed of the reasons due to which the case was not processed according to the instructions of the second instance body, the Public Revenue Office – General Directorate Skopje, informed the Ombudsman that in the procedure where the case was reconsidered with a decision of the Director of the Public Revenue Office, an adequate deployment of position and salary was performed.

NP no. 1150/07

A complainant requested intervention due to acquiescence of the Administration of the jail "Gevgelija" on the submitted claim of a convicted person for provision of the necessary documentation for filing a request for probationary release.

Following the recommendations of the Ombudsman, the Administration of the jail "Gevgelija", gave the personal file and the complete documentation from the penitentiary institution "Idrizovo" to the Jail "gevgelija" by which it allowed the convicted person to file a request for probationary release.

About the institution



Organization and work methods

The organization of the work of the Ombudsman is established in accordance with the Constitution of the Republic of Macedonia and the Law on the Ombudsman. For the aim of providing systematization in the work, and realization of programmed tasks, the Ombudsman's competences are performed through the organizational units in the Institution's head office in Skopje and through the regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

Personnel

During 2007 the Ombudsman employed 2 persons: 1 in the professional department in the head office in Skopje and 1 in the regional office in Bitola.

According to the professional structure, 52 employees have university education, 19 of them high school education and 1 with elementary education. 45 are female and 27 male.

The Ombudsman employs 39 Macedonians, 25 Albanians, 2 Serbs, 2 Roma and 2 Vlachs, one member of the Turkish community and one Boshniak.

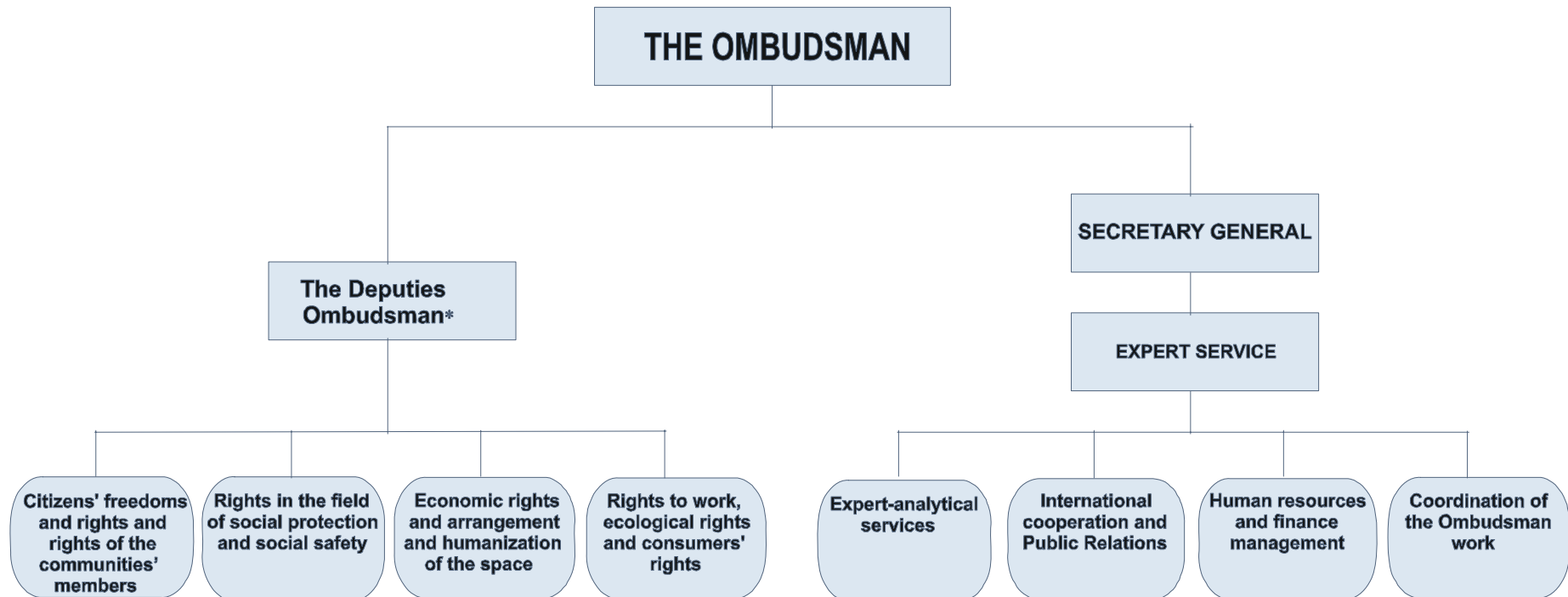
Funds

The funds for the work of the Ombudsman are provided from the budget of the Republic of Macedonia. During 2007, the programmed activities of the Ombudsman, according to the legal provisions, were realized with 54.969.599,00 denars, more than the funds for the previous year, which significantly facilitated the work of the Institution.

Lack of funds for other activities in the aspect of promoting the Institution was covered with the donations from the Swedish International Development Agency – SIDA and the OSCE Mission to Skopje.

As in the previous years, once again it can be concluded that this way of financing is not adequate for the position and the competences of the Ombudsman in the constitutional – legal system of the Republic of Macedonia, because the dependence on finance from the executive government is significantly decreasing the autonomy and independence and represents an obstacle in the realization of the function.

That is why the resolving of this issue by implementing a new, modern, transparent and independent system of financing of the Ombudsman is necessary.



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