



THE OMBUDSMAN INSTITUTION OF THE REPUBLIC OF TURKEY



2018
ANNUAL
REPORT

ABRIDGED ENGLISH VERSION



2018

ANNUAL REPORT

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OMBUDSMAN INSTITUTION



HOW TO CONTACT THE OMBUDSMAN INSTITUTION

Address: Kavaklıdere Mahallesi
Zeytindalı Cad. No: 4
Çankaya/ANKARA-TURKEY

Phone: (312) 465 22 00

Fax: (312) 465 22 65

e-mail: iletisim@ombudsman.gov.tr

e-mail: turkey@ombudsman.gov.tr

www.ombudsman.gov.tr

   /TRombudsman

TO THE READER



The original annual report is 621 pages long. This abridged English summary has been prepared for the benefit of foreign readers, and some of the key highlights about the Ombudsman Institution of Turkey have also been added in order to familiarize readers with the Institution.

*“Let the mankind live
so that the State lives”
(Sheik Edebali)*

*“The most blessed of
mankind is the one who
is the most beneficial
to mankind” (Prophet
Muhammad)*

CONTENTS

CHAPTER I: INTRODUCTION and GENERAL COMMENTS / 9

- 1.1 Chief Ombudsman Mr. Şeref Malkoç / 11
- 1.2 Ombudsman Mr. Yahya Akman / 17
- 1.3. Ombudsman Mr. Arif Dülger / 20
- 1.4 Ombudsman Mr. Sadettin Kalkan / 23
- 1.5 Ombudsman Ms. Celile Özlem Tunçak / 26
- 1.6 Ombudsman Mr. Hüseyin Yürük / 29

CHAPTER II: OVERVIEW OF THE OMBUDSMAN INSTITUTION AND ITS ACTIVITIES / 35

- 2.1 About the Institution and Legal Framework / 35
- 2.2 Organizational Structure / 37
- 2.3 Interaction with Stakeholders / 39
 - 2.3.1 Relations with Public Organizations and Civil Society Organizations / 39
 - 2.3.2 Relations with the Media / 40
- 2.4 Awareness Raising Activities / 41

CHAPTER III: APPLICATION PROCEDURES / 43

- 3.1 How to Apply / 45
- 3.2 Application Period / 45
- 3.3 Confidentiality of the Complaint / 46
- 3.4 Preliminary Examination / 46
- 3.5 Actions and Decisions to be Taken upon Preliminary Examination / 46
- 3.6 Requesting Information and Document / 47
- 3.7 Assignment of an Outside Expert and Hearing of Witness / 47
- 3.8 Examination and Investigation / 47
- 3.9 Resumption of the Term of Litigation / 48
- 3.10 Withdrawing a Complaint / 48
- 3.11 Complaint Handling Process and Types of Decision / 48
- 3.12 Case Summaries / 51
 - a) Justice, National Defense and Security / 51

- b) Protection of Family / 53
- c) Labor and Social Security / 54
- d) Children's Rights / 55
- e) Education, Youth and Sports / 58
- f) Economy, Finance and Tax / 59
- g) Energy, Industry, Customs and Trade / 60
- h) Disability Rights / 61
- i) Food, Agriculture and Livestock / 62
- j) Human Rights / 62
- k) Women's Rights / 64
- l) Public Personnel Regime / 66
- m) Services Provided by Local Governments / 67
- n) Right to Property / 68
- o) Population, Citizenship, Refugee and Asylum Rights / 70
- p) Forestry, Water, Environment and Urbanization / 71
- q) Healthcare / 71
- r) Social Services / 72
- s) Transportation, Press and Communication / 73

CHAPTER IV: INTERNATIONAL COOPERATION / 75

- 4.1 Projects / 77
- 4.2 International Cooperation Activities / 78
- 4.3 Relations with Other Ombudsman Institutions and Networks around the World / 79
- 4.4 Foreign Visitors / 82
- 4.5 Publications / 83

CHAPTER V: STATISTICS /85

- 5.1 2018 at a Glance / 87
- 5.2 General Statistics / 88

LIST OF TABLES

Table 1:	Number of the news about the Ombudsman Institution in 2018
Table 2:	Number of the complaints received by the Ombudsman Institution of Turkey in 2018 regarding public personnel regime
Table 3:	Number of the complaints as per years
Table 4:	Comparison of the complaints as per years
Table 5:	Distribution of the complaints as per application methods for 2017-2018
Table 6:	Distribution of the complaints as per subjects in 2018
Table 7:	Percentage of the types of decision in 2018
Table 8:	Data on cases of 2018
Table 9:	Distribution of the complaints as per Institutions (Top 5 Institutions)
Table 10:	Distribution of the cases resolved through amicable settlement
Table 11:	Comparison of the Recommendation and Partial Recommendation Partial Refusal in 2017-2018
Table 12:	Compliance rate of the Administrations with Recommendations as per years

LIST OF FIGURES

Figure 1:	2018 at a glance
Figure 2:	Distribution of the complaints as per application methods for 2018
Figure 3:	Distribution of the complaints as per subjects in 2018
Figure 4:	Compliance rate as per years

CHAPTER I

2018
ANNUAL REPORT

INTRODUCTION and GENERAL COMMENTS

1.1 Chief Ombudsman
Mr. Şeref Malkoç

1.2 Ombudsman
Mr. Yahya Akman

1.3. Ombudsman
Mr. Arif Dülger

1.4 Ombudsman
Mr. Sadettin Kalkan

1.5 Ombudsman
Ms. Celile Özlem Tunçak

1.6 Ombudsman
Mr. Hüseyin Yürük

CHAPTER I: INTRODUCTION and GENERAL COMMENTS

1.1 Chief Ombudsman Mr. Şeref Malkoç



I am pleased to present the brief English summary of the 6th Annual Report of the Ombudsman Institution of Turkey for the benefit of the foreign readers. The full Turkish version of the Annual Report has been submitted to the Grand National Assembly of Turkey with which our Institution is affiliated. The abridged English version of the 2018 Annual Report contains, *inter alia*, an overview of the Ombudsman Institution and its activities, applications and statistics regarding complaints, as well as international cooperation activities. As you will see in the Chapter “Statistics”, in 2018, we have received 17,585 complaint applications, which has been a record level since the establishment of the Institution, and the total number of the decisions we have issued has been 17,615.

The Ombudsman Institution of Turkey carries out inspection on behalf of the Grand National Assembly of Turkey and draws its power from the moral character of the Grand National Assembly.

The concept of the Ombudsman Institution, which was first originated from our civilization, spread to the Scandinavian countries and then to over 130 countries all around the world, turning into humanity’s one of vital institutions in seeking justice, legal remedy, and protection of human rights.

Being one of the newest and most dynamic institutions of Turkey, the Ombudsman Institution has received over 60 thousand complaints since its establishment in 2012. Through its recommendations, amicable settlements, and special reports, the Ombudsman Institution has resolved the problems of millions of people. We settled many conflicts and remedied many injustices experienced by millions of our citizens by means of our decisions, which affect the lives of many people such as the decision solving the problems of young people who attended the examinations of the Student Selection and Placement Center, decision for our citizens who encountered problems regarding their pension, decision for children who asked for playgrounds in their neighborhood, decision for those who had a problem in prisons. In handling complaints, we not only served as citizens' lawyers but also brought the Administration and the citizen together to ensure that they could resolve their disputes through amicable settlement.

The year 2018 has become a historical year in terms of transition from the Parliamentary System to the Presidential System in Turkey. Following the referendum held on 17 April 2017, the Presidential System was adopted, and the transition process was finalized with the elections of 24 June 2018. His Excellency Mr. Recep Tayyip Erdoğan was elected the first President of the new Presidential System. In addition, 600 Members of the Parliament were elected as the first MPs of the Grand National Assembly of Turkey of the new government system.

The new Presidential System assigns significant duties and responsibilities to the Ombudsman Institution of Turkey. In the Parliamentary System, the acts of the President and decisions as well as orders signed ex officio by the President were out of the competence of the Ombudsman Institution but the relevant provision of the Law has been amended, and therefore the Ombudsman Institution can now receive complaints regarding the acts of the Office of the President.

In the new Presidential System based on the principle of separation of powers, one of the most significant duties of the Parliament is to inspect the executive branch, which is the Administration. As an Institution affiliated with the Parliament, the Ombudsman Institution assumes a key role in inspecting the acts and actions as well as the attitudes and behaviors of the Administration. Through the Ombudsman Institution, the Parliament is entitled to inspect the Administration, identify the problems and call the responsible parties to account for. However, as the Ombudsman Institution is not entitled to conduct ex officio examination and therefore can act only upon receiving a complaint, it is our desire to be vested with the power of ex officio examination as this power may play a crucial role in quickly resolving citizens' problems.

The mission of the Ombudsman Institution is to protect citizens with its effective complaint handling mechanism against unlawful acts of the Administration and to contribute that public services are provided in compliance with human rights as well as the principles of

good governance. In the long term, our Institution aims at playing effective role in creating a public administration where the culture of seeking legal remedies is common and the quality of provided services is high.

It is extremely important to raise awareness about our Institution and its activities. Accordingly, in 2018, we attached particular importance to institutional communication activities to reach large segments of the society through organizing numerous conferences, workshops, provincial visits etc. with the participation of the students from primary schools, high schools, universities as well as village headmen, and representatives of Civil Society Organizations.

Considering the fact that there are 206 universities and more than 7 million 500 thousand students studying at these universities, we desire to reach these students in terms of raising awareness and promoting the right to legal remedy, equity and justice and therefore, our Institution supports the university students to create Ombudsman Student Associations/Clubs. Currently, there are Ombudsman Student Associations within more than 60 universities and many more will be created in the near future.

As part of raising awareness activities, we have organized working visits to some European countries such as Germany, Belgium, Austria, France, Sweden etc. where the Turkish population is the highest. There are more than 6 million Turkish citizens in European countries and 3 million of them live in Germany. Especially in recent years, racism, discrimination, Islamophobia and xenophobia have increased resulting in many violent acts suffered by our Turkish citizens abroad. In this regard, at the first stage, we come together with the representatives of the Civil Society Organizations created by Turkish citizens living in the above-mentioned European countries, and with the prominent persons inviting them to the Turkish Consulate General in the relevant country. We listen to their problems, and inform them about the Ombudsman Institutions, Human Rights Institutions and Anti-Discrimination Institutions functioning in the country where they live. We provide guidance about how to apply to the Ombudsman and seek legal remedies in the country where they live.

At the second stage of this activity, we pay visits to the Ombudsman, Head of Human Rights Organization, relevant commission heads and members of the parliament of that country conveying them the problems and unfair acts from which our citizens suffer. The biggest problem that we have noticed is that our citizens don't know their rights and where to apply if their rights are violated. In this regard, our working visits to certain European countries have yielded positive results in terms of protecting the rights of our citizens.

As you may notice in reading our Report, 2018 has been a record year for Recommendation and Partial Recommendation decisions. While the total number of Recommendations, and Partial Recommendation Partial Refusal decisions for the years 2013-2017 was 792, the total number of these decisions has been 946 for the year 2018, which means that the total number

of these decisions for the year 2018 alone is more than the total number of decisions issued by our Institution since its establishment. Additionally, the compliance rate of the Administration with these decisions has been 70% in 2018, which is a considerable success for a 6-year old Institution.

Our Institution with its staff has one goal: to find a solution to the problems of our citizens by serving as a guardian and lawyer. Thus, I would like to thank all the staff who has showed a maximum effort to that end.

About the Chief Ombudsman Şeref Malkoç

The Chief Ombudsman Şeref Malkoç was born in Trabzon in 1960. He completed his primary, secondary and high school education in Trabzon.

He graduated from Faculty of Law of İstanbul University in 1982. He practiced law in Trabzon for 10 years. During this period, he also worked as an executive in many Civil Society Organizations including Yavuz Selim Foundation and Trabzon House of Culture. He gave lectures on Constitutional Law at Karadeniz Technical University (KTU), Faculty of Economics and Administrative Sciences.

He worked as the Trabzon Provincial Chairperson of Welfare Party (RP). He represented Trabzon in the Grand National Assembly of Turkey during 20th and 21st parliamentary terms, between 1995 and 2002. As the Member of Parliament, he served as the spokesperson of the Justice Committee, Vice Chairman of the Constitutional Committee and Vice Chairman of Turkish-German Inter-parliamentary Friendship Group. He prepared the defenses for political parties "Welfare Party" (Refah Partisi) and "Virtue Party" (Fazilet Partisi) closure cases and defended these Parties in front of the Constitutional Court. He was Vice Chairman for these Parties as well as for Felicity Party (Saadet Partisi). He wrote the complaint petition for the Case of February 28 Coup plotters.

He also worked as an executive for several national and local radio and TV stations. He was the representative of the Justice and Development Party (Adalet ve Kalkınma Partisi) for two years in the Supreme Election Council. During his tenure, he contributed to the Local Elections on 30 March 2014, and Presidential Election on 10 August 2014 as well as General Elections on 7 June 7 and 1 November 2015. His articles and op-eds on Constitution and Presidential System have been published in various journals and

newspapers. His book entitled “The New Constitution and The Presidential System in 40 Questions” has been recently published.

He was appointed as a Chief Advisor to H.E. Recep Tayyip Erdoğan, the President of Turkey, on December 2015.

He was elected by the General Assembly of Grand National Assembly of Turkey as the Chief Ombudsman on 15 November 2016 and took his office on 5 December 2016.

He is married with 3 children.

Duties of the Chief Ombudsman

- a) To examine and investigate the complaints lodged to the Institution, and submit recommendations to the administration accordingly;
- b) To draft the regulations concerning the implementation of the Ombudsman Law;
- c) To prepare annual reports;
- d) To prepare special reports on the matters requiring attention without waiting for the annual report;
- e) To make the reports public;
- f) To assign the Ombudsman who will act in his/her place in his/her absence;
- g) To arrange division of labor among Ombudsmen, with one of the ombudsmen being assigned to deal with women and child rights issues;
- h) To appoint the Secretary-General and other staff members;
- i) To perform other statutory duties.

1.2 Ombudsman Mr. Yahya Akman



As specified in the Constitution, the Republic of Turkey is a social state governed by rule of law, respecting human rights by protecting them with its fair law system. The acts and actions of the Administration are subject to judicial control and the public administrations are obliged to comply with the law. In addition to judicial control of the acts and actions of the Administration, it is also possible to conduct inspections through administrative means. One of these inspection means is the one conducted by the Ombudsman. As in many countries, the Ombudsman Institution in Turkey examines, investigates, and submits recommendations concerning all sorts of acts and actions as well as attitudes and behaviours of the administration within the framework of an understanding of human rights-based justice and legality and conformity with principles of fairness, through creating an independent and effective mechanism of complaint concerning the public services. The Constitution, laws as well as international agreements are of vital importance in terms of protecting human rights. However, the presence of fundamental rights and freedoms in only written legal instruments doesn't mean a lot. Commitment to and confidence in law by the public administration and users of public power matter a lot in protecting human rights in real terms. At this point, the Ombudsman Institution contributes highly to raising such awareness and to improving the public administration's capacity to produce public services in compliance with the principles of transparency, accountability and good governance.

In terms of ensuring the adoption and implementation of the good governance principles by the public administrations, our Institution included these good governance principles in its By-Law on the Procedures and Principles regarding the Implementation of the Ombudsman Institution Law. According to the Article 6 of the By-law, “While conducting examinations and investigations, the Ombudsman Institution shall comply with the principles of good governance and monitor whether the acts and actions of the administration are fulfilled with an understanding of human rights-based justice and in conformity with the principles of good governance such as compliance with laws, prevention of discrimination, proportionality, abuse of power, equality, impartiality, honesty, courtesy, transparency, accountability, compliance with the fair expectation, protection of vested rights, right to be heard, right of defense, right to be informed, taking decision in a reasonable period, taking justified decisions, indicating remedies against decisions, notifying the decision without delay and protection of personal data.” Accordingly, our Institution commits itself particularly to these principles, and make recommendations to the relevant Administrations to comply with the Principles of Good Governance as a result of conducted examinations and research after receiving compliant applications.

My areas of responsibility for the year 2018 include *justice, national defense and security, forestry, water, environment and urbanization, right to property, healthcare, food, agriculture and livestock and other related subjects and areas*. Regarding these areas, our priority is to contact relevant administration about the complaint applications filed to our Institution and to try to resolve the problem through “amicable settlement” and to make recommendations to the relevant administration to resolve the unjust treatment when determined that the acts and actions of the administrations have resulted in a violation of a right or an interest.

In this regard, the applications filed to our Institution are examined thoroughly and the decisions are made accordingly. Although the deadline to resolve a case is 6 months as laid down in the Law, we show great effort to finalize it within a shorter time period.

Furthermore, we plan to organize workshops regarding subjects of applications to be participated by many representatives from relevant institutions, civil society organizations as well as academicians. For example, we receive applications from the prisoners or detainees regarding prison conditions, prison management and attitudes and behaviors of the prison staff, disciplinary penalties, transfer requests, etc. Considering the large number of applications that we receive on these matters, we organized two meetings to examine the problems relating to prisons, one with the representatives of the Ministry of Justice Directorate General of Prisons and Detention Houses on 16/10/2018 and the other one with the representatives of civil society organizations on 01/11/2018. Following these meetings, we visited some of the prisons in Ankara, İstanbul, İzmir and Diyarbakır provinces. In order to assess the findings following these visits and examining the applications, we are also planning to organize a workshop to be participated by the representatives from the relevant Ministry and civil society organizations.

We also receive many applications relating to healthcare. These applications are mostly about problems experienced in emergency services, patient rights, and family practice centers. The applicants usually complain about increased admissions in emergency services, ill-treatment of healthcare personnel, violation of patient rights etc. Moreover, violent acts against medical staff has become an increasing problem recently. Therefore, we also plan to organize a workshop to discuss this problem by inviting all stakeholders including representatives from the Ministry of Health, and prepare a report including the findings at the end of the workshop.

Hoping that 2018 Annual Report will serve as a guide in the forthcoming work of our Institution as well as for our country and citizens, I wish that 2019 will be a fruitful year with more progress in the field of protection and promotion of human rights in the world.

About the Ombudsman Yahya Akman

He was born in Şanlıurfa on 7 May 1966.

He graduated from the Faculty of Law in Istanbul University in 1988. Following his internship of law and his short-term military service in Şanlıurfa, between 1990 and 1999, he worked as a freelance lawyer in Birecik-Şanlıurfa.

He was elected as a member of the parliament in General Election of 1999 from Şanlıurfa of Virtue Party (Fazilet Partisi). During this period, he was assigned as a member of Committee of Justice and the secretary general of the Presidency Council under Grand National Assembly of Turkey.

Following the closure of Virtue Party in the year 2001, he became one the founders of Justice and Development Party.

He was elected as a member of the parliament in General Elections of the years 2002, 2007 and 2011 of the Justice and Development Party.

He worked as the Head of Committee of Petitions in the Parliament between the years 2002 to 2007.

He worked as a member of Committee of Justice and as Head of Committee of Petitions in the Parliament between 2007 to 2011.

He worked as a member of the Committee of Constitution and Group Head of Turkey and Qatar Fellowship.

He worked actively for the awareness and promotion of Ombudsman Institution of Turkey and actively participated in the developmental

process for the best accountable ombudsman model for Turkey, taking into account the best practices around the world.

At his own request, he did not stand for parliamentary candidatureship in 2015 Elections and, ended his active political career.

He was elected as one of the Ombudsmen by the Joint Committee of Petitions and Human Rights on November 2016.

He speaks Kurdish and English well.

He is married with 6 children.

Areas of Responsibility

- ◇ Forestry, water, environment and urbanization
- ◇ Right to Property
- ◇ Food, agriculture and livestock
- ◇ Justice, national defense and security
- ◇ Healthcare
- ◇ Other related subjects and areas

1.3 Ombudsman Mr. Arif Dölger



The modern administrative management of our age which is based on human rights requires not only effective and efficient provision of public services but also the protection of individual rights and interests along with public interest in providing these public services.

One of the significant developments as part of transition and transformation process that Turkey has been going through in recent years has been the establishment of Ombudsman Institution which was actually originated in our lands with a different name years ago. The Institution has been actively working for six years as a mechanism which acts directly, quickly and flexible manner to protect fundamental rights and freedoms as well as to ensure that administrations commit themselves to good governance principles.

Adopting the principle *“Let the mankind live so that the State lives”*, the Institution is a citizen-oriented public entity which serves as defender of citizens and is entitled to examine any administrative organ on behalf of citizens and can access to any information and document to contribute to better functioning of the administration.

Acting with the vision *“to play an effective role in creating a public administration where the culture of seeking legal remedies is common and the quality of provided services is high”*, our Institution aims at, *inter alia*, contributing to formulating a public administration which is more inclusive, transparent, accountable, fair, and human rights-oriented, respecting democratic and ethical values.

My areas of responsibility for the year 2018 include *education, youth and sports, energy, industry, trade and customs, science, art, culture and tourism*. With a view to improving the relations between the Administration and the individuals, and to increasing confidence of individuals in the Administration, we believe that it is more useful to gather the Administration and the individual so that these two parties can negotiate the problem. Therefore, amicable settlement of conflicts between the Administration and the individual in a way to satisfy both parties is the mostly preferred method by our department. By this means, we believe that we play an active role in helping that communication between the administration and citizen as well as citizen's confidence in administration will foster and conflicts will be resolved in a quicker, more effective way and in favor of the citizen without facing bureaucratic obstacles.

Bearing this in mind, we held meetings and workshops in 2018 by gathering applicant citizens and relevant administrations on the subject matters which were of particular concern to the public and tried to resolve conflicts through amicable settlement method by serving as a bridge between both parties.

Turning into a fully functional public entity in a very short time, our Institution has started to receive positive feedbacks from the public thanks to its decisions, activities as well as its reports. We sincerely believe that as the added value of the Ombudsman Institution to our country and its efficiency in the public opinion increase day by day in terms of citizens' seeking legal remedies, confidence in our Institution will further raise paving the way for our Institution to reach its well-deserved place in our administrative system.

About the Ombudsman Arif Dülger

He was born in Kırklareli on August 15, 1963.

He graduated from Faculty of Economics and Administrative Sciences in Marmara University.

He started to work at H. Nimet Özden Foundation in 1980 and continued his career at several press institutions as a journalist between 1984-1986, and as a contractual civil servant in the Department of Finance under Turkish State Railways between the years 1987-1988.

He was assigned as an assistant inspector to Directorate General of Foundations in 1988 and worked there for 3 years. Then he was assigned to the same Directorate General as an Inspector. After working as an Inspector for 16 years, he was assigned as a Member of Foundations Council in 2004, and remained in this position until 2016.

On 2 November 2016, he was elected as an Ombudsman by the Joint Committee of Petitions and Human Rights under Grand National Assembly of Turkey.

He was selected as the “Poet of the Year” in 2009 by Writers Union of Turkey. His poems were published in many magazines.

He is married with 2 children.

Areas of Responsibility

- ◇ Education, youth and sports,
- ◇ Energy, industry, customs and trade,
- ◇ Science, art, culture and tourism

1.4 Ombudsman Mr. Sadettin Kalkan



In pursuant to the Law No. 6328, the Ombudsman Institution of Turkey serves as a bridge between the administration and the citizens by resolving conflicts after conducting examinations and research relating to these conflicts stemming from all sorts of acts and actions as well as attitudes and behaviors of the Administration within the framework of an understanding of human rights-based justice and in the aspect of legality and conformity with principles of fairness, and accordingly makes recommendations to the Administrations. In this way, our Institution plays an important role in improving the administration of public institutions, adopting and strengthening the culture of seeking legal remedies of the individuals by encouraging the administrations to use their discretionary power in favor of the individuals.

Although judicial control of the administration is the key guarantee of a State governed by the rule of law, the systems based on inspecting the administrations are not always able to prevent unjust treatments and fail to compensate for them. At this point, the Ombudsman Institution is expected to detect any legal gaps, unlawful and unjust practices in the current system and quickly resolve the problem.

Our Institution aims at ensuring that the State cares about the complaints of individuals, that the fundamental human rights are protected and fostered with a citizen-engaged administrative

approach and being the voice of public conscience in strengthening the democracy. To that end, our Institution adopted the principle of “using communication tools”. When the individuals are directly contacted, they feel that their complaints are paid attention by the relevant authorities and therefore they feel satisfied. Establishing an active and continuous communication between the State and the society will contribute to eliminating the popular belief that the Administrations are inaccessible, and they don’t care about the complaints. Right at this point, our Institution plays a key role.

As part of complaint handling mechanism, our Institution not only examines the available information and documents but also contacts the relevant authorities and assesses the subjects of complaints by coming together with these authorities and seeks a settlement regarding the conflict. All parties of the conflict are heard while the case is dealt with. Our Institution makes significant contributions to fostering the culture of settlement, effective and efficient functioning of administrations, implementing the good governance principles, and resolving quickly the conflicts between the administration and the individuals.

My area of responsibility is *public personnel regime*. In 2018, we received complaint applications mostly about 28 February Process, oral examinations conducted by public authorities, appointment requests for unity of family, transfer requests due to disability, mobbing, disciplinary penalties, and family allowance.

I believe that as our Institution is increasingly being recognized by the public and becoming more and more popular day by day thanks to its awareness raising activities, it will further contribute to functioning of public administrations in a more transparent and effective manner in compliance with the good governance principles.

About the Ombudsman Sadettin Kalkan

He was born in Kocaeli in 1962.

He graduated from Faculty of Law of Istanbul University in 1986.

He began his career as district governor candidate of Zonguldak province in 1987.

In 1990, he embarked his district governorship service as district governor of Ulus. Afterwards, he served as district governor in Ulus and Çamoluk, Diyarbakır deputy governor, district governor in Ardeşen, Beşikdüzü, Sarıkamış, Kaman, Gölarmara, Kadirli and Turgutlu.

While he was deputy governor of İstanbul, he was appointed as Secretary General of Grand National Assembly of Turkey.

During his deputy governorship service in Diyarbakır, he obtained his master's degree from Dicle University in 1997.

He received vocational and language trainings for a year in the United Kingdom.

He conducted research regarding the Ombudsman Institution in Spain.

He was elected as Ombudsman by the Joint Committee of the Grand National Assembly of Turkey on 17/01/2018.

He has very good command of English, and is married with three children.

Area of Responsibility

- ◇ Public Personnel Regime

1.5 Ombudsman Ms. Celile Özlem Tunçak



Vested with broad power to protect and strengthen human rights, our Institution cooperates with the civil society organizations, gathers the civil society organizations that are specialized in different areas, and encourages cooperation between these organizations and the Administration, improves its relations and cooperation with the media, and attaches great importance to being accessible by all the segments of the society, particularly by the vulnerable/disadvantaged groups in society. Considering the nature of its activities, our Institution is characterized as an independent national human rights institution acting in cooperation with national and international actors.

The working principle of the Institution is based on an approach which is individual-oriented, and it aims at eliminating any unjust treatment.

My areas of responsibility for the year 2018 include “*Labor and Social Security*”, “*Human Rights*”, “*Women’s Rights*”, “*Children’s Rights*”, “*Protection of Family*”, “*Disability Rights*”, “*Population, Citizenship, Refugee and Asylum Rights*” and “*Social Services*”.

One of the weakest and most fragile segments of the society is children. Thus, according to the paragraph f of the Article 7 of the Ombudsman Law No. 6328, one Ombudsman has been assigned to deal with applications concerning women’s and children rights. Any application filed to our Institution regarding these rights is considered as a significant area in terms of protecting and promoting human rights, and these applications are carefully examined taking into consideration of all the rights guaranteed in the Convention on the Rights of the Children

to which Turkey is a party, too. The Ombudsman Institution of Turkey acts with a mission to seek, protect and implement the rights of all the children living in Turkey.

The Ombudsman Institution is the only institution to which children can directly apply, which is a first of its kind. Therefore, any application filed to our Institution about children's rights is considered as an important step to help our children to have their own ideas and freely express them, to raise their awareness in terms of their rights and freedoms, to be an individual raised with a democratic culture as well as ensuring their active engagement in democracy. By receiving applications from the children, our Institution also assumes the responsibility to create a child-amicable society in cooperation with the Administration, international organizations and the civil society organizations.

Our Institution's works on promoting equal opportunities for women and men, protecting and strengthening women's rights as well as fighting against violence towards women in Turkey continued in 2018, too. In 2018, we received applications regarding equal opportunities for women and men, social benefits, working conditions of women in work life, and service provision for women victims of violence.

Our works in the field of women's human rights are not limited to complaint application mechanism. We work in coordination and cooperation with the relevant public authorities and civil society organizations working in this field, and we closely monitor current developments and problems within our mandate, we provide necessary contributions to resolving the problems that women in Turkey face with.

In this regard, considering the prevalence of cases of domestic violence against women and children in 2018, our Institution organized a workshop so as to identify shortcomings in the functioning of existing mechanisms on preventing domestic violence against women and children and to formulate solutions. Upon receiving applications relating to the problems stemming from breakdown of unity of family after divorce, our Institution also held meetings and workshops to take the opinions of all relevant stakeholders and discussed the solutions with an inclusive method.

I would like to sincerely thank all my colleagues and staff who worked really hard and showed maximum effort to deal with the applications regarding my areas of responsibility, and also all the other Ombudsmen as well as the Chief Ombudsman Mr. Şeref Malkoç who supported us when needed in carrying out our works.

About the Ombudsman C. Özlem Tunçak

She was born in Ankara on January 13, 1970.

She graduated from the Faculty of Law of Ankara University in 1992.

She worked as a freelance lawyer between the years 1994-1997; as a Lawyer and Head of Legal Department in the General Directorate of Turkish Post in Bursa between the years 2007-2008, as an Advisor to the Minister at the Ministry of Labor and Social Security between the years 2008-2009; as an Advisor to the Minister at the Ministry of Transportation, Maritime Affairs and Communication between the years 2009-2014; as a Legal Advisor of PTT Corporation between the years 2013-2014; as a First Legal Advisor in Social Security Institution between 12/05/2016 to 12/12/2016 and as a Prime Ministry Advisor (Part time Assignment) between 03/08/2016 to 12/12/2016.

She was elected as an Ombudsman on November 2, 2016.

Foreign Languages: English (good), German (medium)

Married with 2 children

Areas of Responsibility

- ◇ Labor and Social Security
- ◇ Human Rights
- ◇ Women's Rights
- ◇ Children's Rights
- ◇ Protection of Family
- ◇ Disability Rights
- ◇ Population, Citizenship, Refugee and Asylum Rights
- ◇ Social Services

1.6 Ombudsman Mr. Hüseyin Yürük



As in the past, people of our time may sometimes be exposed to unjust treatment due to misuse of public power by the Administrations in their all sorts of acts and actions as well as their attitudes and behaviors which are contrary to the law and good governance principles.

In this regard, the number of cases submitted to the courts due to practices relating to misuse of public power by the public authorities have increased, and therefore the cases have been started to be concluded late, which have resulted in looking for and creating alternative legal remedies for individuals.

Thus, individuals are increasingly applying to these alternative legal remedies when they experience any unjust treatment, and they have now more sense of awareness about their rights to seek legal remedies.

One of these alternative ways to seek legal remedies in Turkey is to apply to the Ombudsman Institution, which dates back to the Seljuks and the Ottoman Empire. The institutional precursor of the modern Ombudsman was the Qadi-l Qudat where the complaints were heard during the Ottoman Empire. Charles XII of Sweden, who took refuge in the Ottoman Empire, had a chance to analyze this practice and legal institution. Inspired by this practice,

he established this foundation with the concept of “ombudsman” when he returned to his country, and then the other European countries also established the Ombudsman Institution.

Ombudsmen are elected by the legislative branch and assigned to detect any unjust acts caused by the administrations, to ensure that the administrations act in conformity with the laws and good governance principles, to prevent them from abusing their discretionary power granted by the applicable laws, and, when needed, to make recommendations to remove any shortcomings and mistakes detected in the applicable laws for better provision of public services. An ombudsman is an independent and impartial public official acting after receiving a complaint from individuals who claim to have been subjected to any unjust treatment, and no one or no authority can intervene in the acts or decisions of the Ombudsman.

The Ombudsman receives people’s complaints, and after examining these complaints, he/she shares the results and the findings with the applicant, and with the relevant public administrations to resolve the conflict. At this point, what is important for the Ombudsman is to make decisions in compliance with the laws and the principle of fairness, rather than deciding who is right or wrong. In this way, the Ombudsman ensures that the Administrations function well, and that their acts and behaviors do not give damage to the citizens.

My areas of responsibility include “*Services provided by local governments*”, “*Economy, Finance and Tax*”, and “*Transportation, Press and Communication*”. *The majority of applications are usually about “services provided by local governments”.*

Creating a strong and effective communication network with the relevant Ministries, general directorates, institutions, agencies, supreme boards, governorates, metropolitan municipalities, municipalities as well as relevant civil society organizations, our Institution plays a significant role in quickly and effectively resolving the conflicts between the individuals and the administrations.

To conclude, I hope that the Annual Report 2018, which includes, *inter alia*, complaint applications filed to our Institution, their results, and the national and international activities of the Institution, will raise awareness and culture among the individuals of seeking legal remedies and will contribute to resolving the disputes between individuals and administration.

About the Ombudsman Hüseyin Yürük

He was born in Ordu in 1966.

He graduated from the Faculty of Law at İstanbul University in 1990.

He worked as a lawyer in the Legal Department of Istanbul Water and Sewerage Administration (ISKI). Then he started to work as the General Director of Bilge Consulting.

After being elected as the member of İstanbul Provincial Council in the Local Election of 2009, he worked there as the Head of the Law Committee. Following his membership in Usküdar Municipality Council in the local elections of 2014, he became the Head of Usküdar Municipality Council.

He was assigned as a Ministerial Advisor on 22.10.2014. He worked as the Acting Head of Natural Heritage Board No.2 of İstanbul under the Ministry of Environment and Urbanization. While working as a Ministerial Advisor in the Ministry of Environment and Urbanization, he was elected as an Ombudsman by the Joint Committee of Petitions and Human Rights under the Grand National Assembly of Turkey.

Married with 3 children.

Area of Responsibility

- ◇ Services provided by local governments
- ◇ Economy, Finance and Tax
- ◇ Transportation, Press and Communication

CHAPTER II

2018
ANNUAL REPORT

OVERVIEW OF THE OMBUDSMAN INSTITUTION AND ITS ACTIVITIES

2.1 About the Institution
and Legal Framework

2.2 Organizational
Structure

2.3 Interaction with
Stakeholders

2.3.1 Relations with Public
Organizations and Civil
Society Organizations

2.3.2 Relations with the
Media

2.4 Awareness Raising
Activities

OVERVIEW OF THE OMBUDSMAN INSTITUTION AND ITS ACTIVITIES

2.1 ABOUT THE INSTITUTION AND LEGAL FRAMEWORK

Law on the Ombudsman Institution No. 6328

The Ombudsman Institution of the Republic of Turkey was established in **2012** with the Law on the Ombudsman Institution No.6328 as a **constitutional public entity** affiliated with the Grand National Assembly of Turkey. It has **its own private budget** and headquarters in Ankara and one office in Istanbul.

According to the Ombudsman Law, the Institution shall be responsible for examining, investigating, and submitting recommendations to the Administration with regard to all sorts of acts and actions as well as attitudes and behaviors of the Administration upon complaint on the functioning of the Administration within the framework of an understanding of human rights-based justice and in the aspect of legality and conformity with principles of fairness.

The Ombudsman Institution aims to contribute to;

- ◇ Increasing the service quality of the administration,
- ◇ Internalizing principles of good governance,
- ◇ Improving human rights standards,
- ◇ Strengthening the culture of seeking legal remedies,
- ◇ Forming a transparent and accountable administration.

The Institution started to receive complaints on March 2013. The main duty of the Institution is to advocate for individuals against the administration, as well as protecting and promoting human rights, and it is considered the “conscience” and “lawyer” of the people in the system that is based on individuals and rights.

The Institution has been carrying out its activities based on rule of law, development of respect for human rights and accountability towards people.

Following the transition from the Parliamentary System to the Presidential System of governance in Turkey, The Law on Ombudsman Institution (Law No. 6328) has been amended and the competence of the institution has been broadened so as to involve the acts of the President (Amendment of Article 5 Law No. 6328 ruled by 2/7/2018-Decree Law/703/Art. 110). However, the acts concerning the execution of the legislative power, the acts concerning the execution of the judicial power, the acts of the Turkish Armed Forces, which are purely of military nature, are outside the competence of the Institution.

The Chief Ombudsman and Ombudsmen are elected by the Grand National Assembly of Turkey) for four years and may be reelected. They must act in compliance with the principle of the independence and impartiality during the exercise of their duties.

The Chief Ombudsman and ombudsmen are paid a monthly salary that is equal to the financial rights including all sorts of remuneration allocated respectively to the highest Civil Servant and to the Directors-General of the Ministry.

The Ombudsman Institution was established in compliance with the *Paris Principles*, and carries out its works within the framework of these principles considering the followings:

- ◇ the Ombudsman Institution is a constitutional entity whose powers and duties are regulated by the Constitution,
- ◇ the Chief Ombudsman and Ombudsmen are elected by the Grand National Assembly of Turkey (GNAT),
- ◇ its revenues comprise the treasury funds to be allocated from the budget of the GNAT,
- ◇ the Chief Ombudsman and the Ombudsmen are elected for a given period and may be re-elected,
- ◇ the Ombudsman Institution is authorized to conduct independent research in the fields within its mandate, and is not open to suggestions while conducting examinations and research,
- ◇ the Ombudsman Institution is vested with the competence to ask for all the information and documents,
- ◇ the Ombudsman Institution can publicly announce its recommendations,
- ◇ the Ombudsman Institution can work in cooperation with the civil society organizations, etc.

By-law on Procedures and Principles Concerning the Implementation of the Law on the Ombudsman Institution

The By-law has been prepared on the basis of Law on the Ombudsman Institution No. 6328 and covers procedures and principles for complaint applications lodged by natural and legal persons to the Ombudsman Institution, scope of the duties of the Institution, and good governance principles.

2.2 Organizational Structure

The Ombudsman Institution vigorously varies its activities and adapts and strengthens its organizational structure according to rapidly developing challenges. Since its establishment,

the Institution has created new units within itself to better serve applicants and to monitor the consequences of its decisions and reports.

The Institution consists of the Office of the Chief Ombudsman and the Office of the Secretary-General. The Office of the Chief Ombudsman comprises the Chief Ombudsman and 5 Ombudsmen.

The Institution is administered and represented by the **Chief Ombudsman**.

The Office of the Secretary General performs the secretarial, administrative and financial affairs of the Institution. The Office of the Secretary-General consists of the Secretary-General and other administrative staff members.

The duties of the Office of the Secretary-General are as follows:

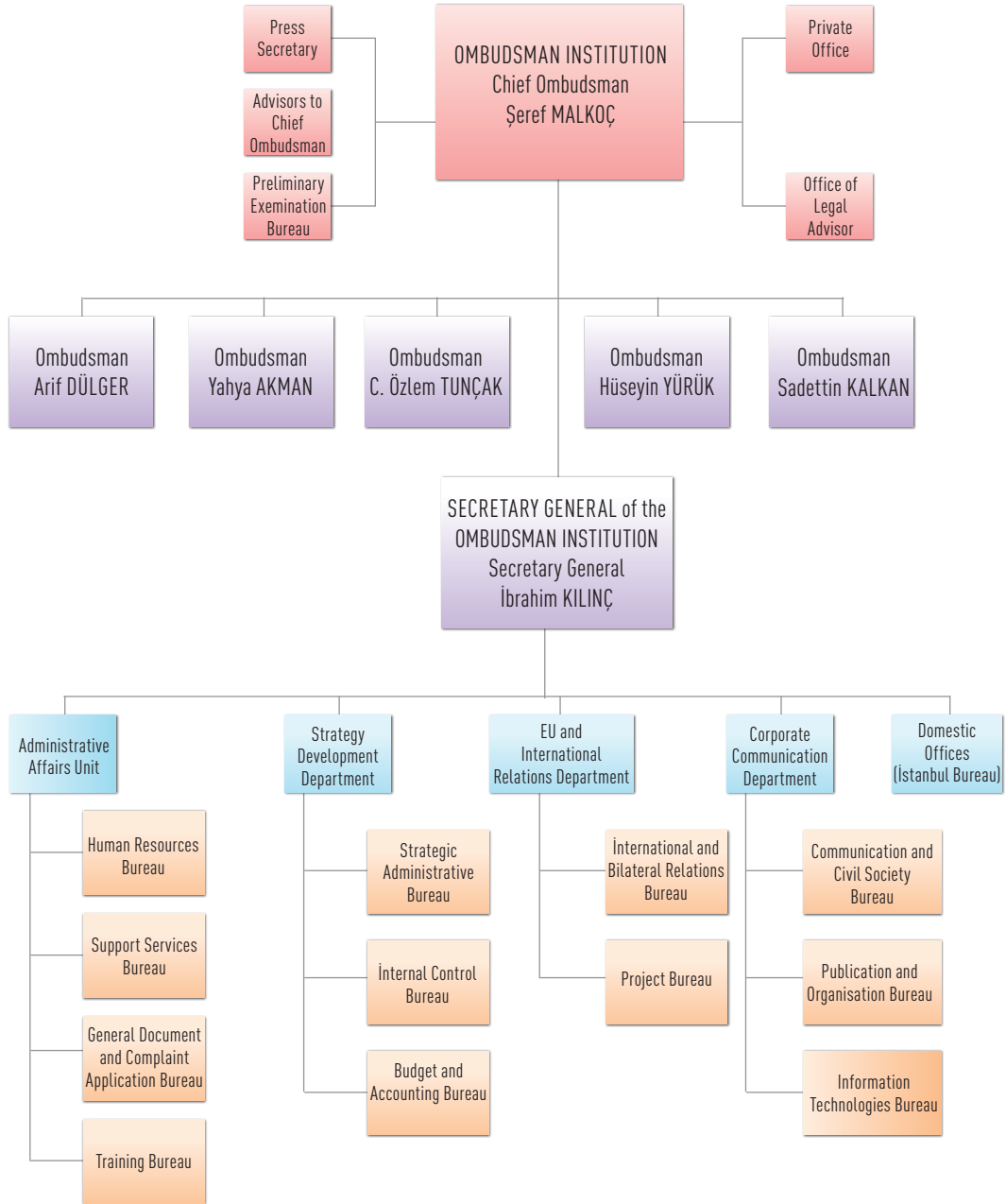
- a) To conduct clerical services for the Institution;
- b) To keep personal files of the staff members;
- c) To carry out the archive services of the Institution;
- d) To perform the duties assigned to the financial services units and strategy development units by relevant Laws;
- e) To conduct the procedures concerning the leaves and retirement of staff members;
- f) To carry out the personal staff matters, health and social services procedures of the staff members working at the Institution;
- g) To ensure the use of the information systems with regard to the matters concerning the activity field of the Institution and
- h) To perform statutory duties or the duties assigned by the Chief Ombudsman.

A new unit “*Preliminary Examination, Distribution and Information Bureau*” has been established to provide information to the applicants regarding their applications, and to provide legal guidance for citizens. With the new organizational structure, the institutionalization has been ensured and an effective and efficient complaint handling process has been achieved.

Furthermore recently, the **Press Consultancy and Corporate Communication Unit** as well as the **Research, Follow-up and Evaluation Bureau** have been established. While the Press Consultancy and Corporate Communication Unit aims to enhance the recognition of the Institution, the latter systematically follows up the implementation of the decisions of recommendation, referral, and amicable settlement so that the compliance rate of the administration to the Ombudsman decisions is increased through effective communication with the administration.

The Organizational chart of the Ombudsman Institution is as follows:

ORGANIZATIONAL CHART OF OMBUDSMAN INSTITUTION OF TURKEY



As of 31 December 2018, the Ombudsman Institution comprises 245 staff including 140 permanent staff, 80 permanent workers, 3 contractual IT specialists and 22 temporary staff.

2.3 Interaction with Stakeholders

2.3.1 Relations with Public Organizations and Civil Society Organizations

The Institution is obligated to protect individual rights and freedoms against the Administration, and its another purpose is to provide guidance for public officials, to increase the quality of public services provided, and to contribute to promotion of good governance principles in Turkey.

In this regard, the Institution assumes very important functions to the benefit of not only the citizens but also to the public organizations. Its duty towards citizens is to guarantee that public organizations provide high quality, timely and rightful services while its duty towards the public organizations is to verify that the services provided serve the purpose and are fair.

The civil society organizations play an effective role in the functioning of the Ombudsman. In this context, our Institution attaches great importance to establishing communication and cooperation with the Administrations and civil society organizations which are its primary stakeholders with a view to preventing violations of rights, spreading the culture of seeking legal remedies as well as achieving the objective of good governance. Some of the activities carried out in 2018 with these stakeholders are as follows:

- ◊ Visits to Administrations and civil society organizations within the activities under the “Meetings with citizens and provincial working visits” (e.g, Visits to cities such as Kayseri, İzmir, Tunceli, Yozgat, Diyarbakır, Siirt, Bitlis, Kırklareli, Edirne, and Eskişehir)

During these visits, regional meetings with the headmen, representatives of the civil society organizations, local governments and other relevant representatives of these cities were held, and the problems of the city and possible solutions were discussed.

- ◊ Visit to UNICEF (February 2018), Visit to Confederation of Public Employees Trade Union (KESK) (October 2018), Visit to Kamu-Sen (Public Employees Trade Union) (October 2018) and many other visits to the Ministries, agencies, etc.

Communication and Cooperation Meetings with Public Organizations

In 2018, the Chief Ombudsman Şeref Malkoç paid courtesy visits to the newly appointed Ministers such as Minister of Justice, Minister of Interior, Minister of Environment and Urbanization, Minister of Trade, Minister of Health, Minister of National Defense etc. During these visits, the activities of the Ombudsman Institution were introduced. Additionally, in September and October, meetings were held with the Deputy Ministers to inform them about the Institution and its activities.

2.3.2 Relations with the Media

Our Institution appeared in 22.090 news in printed and visual media such as newspapers, TV, and internet in January-December 2018. Within 2018, the number of the people accessing this news on decisions and activities of the Institution has been 154 million 427 thousand 768.

Table 1: Number of the news about the Ombudsman Institution in 2018

Number of the News about the Institution	
	2018 (January-December)
Newspaper	1.895
TV	799
Internet	19.396
TOTAL	22.090

Live Broadcasts

With the aim of introducing the Institution and its activities, and spreading the culture of seeking legal remedies, the Chief Ombudsman appeared on many national TV channels through live broadcasts in 2018, gave 29 interviews for agencies and newspapers, and participated in live broadcasts on TV and radio 12 times.

Printed Media

The most significant decisions regarding the applications which were of particular concern to the society were ensured to have widespread media coverage in order to contribute to the recognition of the Institution, its activities and decisions, and to get public support.

Social Media

In 2018, the Institution continued its activities to be recognized and to raise awareness by way of its active social media accounts like Facebook, Twitter, YouTube and Instagram. In this regard, as of the end of 2018, the number of the followers of our Institution on Facebook have increased to **28.203**, to **748** on Instagram and to **4.694** on Twitter.



Communication Meetings with Media and Press Representatives

In Ankara and Istanbul, our Institution came together with all local media representatives, chief editors and columnists a few times.

In addition, on 20 February 2018, a meeting was held with the foreign press and media representatives including Russian Sputnik News Agency, Kurdish Rudaw TV, Reuters, Bloomberg, America's Voice, Cyprus BRT TV, Chinese International Radio TV, Palestinian News Agency, Iranian News Agency and Deutsche Welle which are based in Ankara.

Website of the Ombudsman Institution

The website of the Institution was visited over **963.035** times in 2018.

2.4 Awareness Raising Activities

The Institution places a great deal of importance to raising awareness about its activities. In order to achieve the goal of increasing the recognition of the Institution by the public, the Institution focused on institutional communication activities to reach large segments of the society, and organized numerous conferences, workshops, provincial visits etc. participated by the students from primary schools, high schools, universities as well as by village headmen and representatives of civil society organizations.

In this regard, with a desire to reach students in terms of raising awareness and promoting the right to seek legal remedies, equity and justice, our Institution supports university students to create Ombudsman Student Associations/Clubs. Currently, there are Ombudsman Student Clubs within more than 60 universities and many more are intended to be established in the upcoming days.

In addition, as part of a Project on «***Spreading the culture of legal remedies***», the Institution has organized working visits to some European countries such as Germany, Belgium, Austria, France, Sweden etc., where the Turkish population is the highest. There are more than 6 million Turkish citizens in European countries and 3 million of them live in Germany. Especially in recent years, racism, discrimination, Islamophobia and xenophobia have increased resulting in many violent acts suffered by our Turkish citizens abroad. In this regard, at the first stage of the Project, the Institution comes together with the representatives of the Civil Society Organizations created by Turkish citizens living in the above-mentioned European countries, and with the prominent persons at the Turkish Consulate General in that country. The Institution listens to their problems and informs them about the Ombudsman Institutions, Human Rights Institutions and Anti-Discrimination Institutions functioning in the country where they live, and provides guidance about how to apply to the Ombudsman and seek their legal remedies in the country where they live.

At the second stage of this activity, the Institution pays visits to the Ombudsman, Head of Human Rights Organization, relevant commission heads and members of the parliament of that country and the problems and unfair acts suffered by Turkish citizens are delivered to them. The biggest problem that has been noticed is the fact that our citizens don't know their rights and where to apply if their rights are violated. In this regard, our working visits to certain European countries have yielded positive results in terms of protecting the rights of our citizens.

Another raising awareness activity which has resulted in an increase in children's applications is cooperation activity with the Ministry of Education, which started in 2015. In order to raise awareness and promote the culture of seeking legal remedies,, information about our Institution and its activities has been added in course books such as "Human Rights, Citizenship, Democracy", which is taught at 4th grade in elementary schools as mandatory course, and "Democracy and Human Rights", which is among elective courses taught at secondary schools. As our Institution is introduced through these activities, many children from Istanbul and Ankara as well as from other cities voice their problems to us.

CHAPTER III

2018
ANNUAL REPORT

APPLICATION PROCEDURES

- 3.1 How to Apply
- 3.2 Application Period
- 3.3 Confidentiality of the Complaint
- 3.4 Preliminary Examination
- 3.5 Actions and Decisions to be Taken upon Preliminary Examination
- 3.6 Requesting Information and Document
- 3.7 Assignment of an Outside Expert and Hearing of Witness
- 3.8 Examination and Investigation
- 3.9 Resumption of the Term of Litigation
- 3.10 Withdrawing a Complaint
- 3.11 Complaint Handling Process and Types of Decision
- 3.12 Case Summaries

APPLICATION PROCEDURES

3.1 How to apply

Natural and legal entities whose interests, rights or freedoms are violated may lodge a complaint to the Ombudsman Institution against all kinds of acts, actions, attitudes and behaviors of the administration. However, the condition of “violation of interest, rights or freedoms” is not sought in the event that the complaint is about human rights, fundamental rights and freedoms, women’s rights, children’s rights and general issues concerning the public.

The complaint shall be lodged with a petition written in Turkish. However, a petition in a different language in which the complainant can express himself/herself better, may be accepted provided that it is deemed to be fair and reasonable by the Ombudsman Institution.

Complaint applications may be delivered in person by visiting the Ombudsman Institution as well as via mail, electronic mail, e-government, fax or via electronic system available on the website of the Institution. Complaints may also be sent to the office of the Ombudsman Institution in Istanbul. However, the originals of the complaint applications lodged via fax or electronic mail are required to be delivered to the Ombudsman Institution within fifteen days; otherwise, the complaint shall not be admissible. This condition doesn’t apply to the complaints lodged through registered electronic mail.

Moreover, the complaints may be lodged in person or via mail through governorates in provinces and district governorates in districts. Governorates and district governorates send the complaints and their annexes if available in three working days at the latest to the Ombudsman Institution.

Complaints may be lodged by filling out the “Complaint Form for Natural Entities” or Complaint Form for Legal Entities. Provided that the required information and documents specified in the Ombudsman Law are included, a complaint may also be lodged without using the forms. In the event that a justified reason exists, complaints may also be lodged orally.

The complaint may also be lodged by a legal representative or an assignee.

No price is charged due to any reasons for lodging a complaint.

3.2 Application period

Application may be filed with the Institution within six months following the date of notification of the response to the application filed with the administration. The date of the application is deemed to be the date on which the petition is submitted to the Institution or provincial or district governor’s offices or, in other cases, the date on which the application is received by the Institution.

Any application filed during the term of litigation suspends the ongoing term of litigation.

3.3 Confidentiality of the complaint

Complaint shall be kept confidential at the request of the complainant. All kinds of measures for keeping the complaint confidential shall be taken by the Ombudsman Institution.

3.4 Preliminary Examination

Complaints are subjected to a preliminary examination prior to the examination and investigation phase. In the preliminary examination, the complaint is examined in terms of whether

- a) it falls within the scope of duty of the Ombudsman Institution,
- b) it is lodged within proper term,
- c) its reasons, content and parties are the same with the ones of another complaint which is being examined and investigated,
- d) its reasons, content and parties are the same with the ones formerly finalized by the Ombudsman Institution,
- e) it is about the disputes being handled or decided on by the judicial organs,
- f) the administrative remedies are exhausted or not,
- g) it is lodged within the framework of the first paragraph of Article 8 of the Bylaw on the Procedures and Principles regarding the Implementation of the Ombudsman Institution Law,
- h) it includes a specific subject matter,
- i) it contains the information required for lodging a complaint pursuant to the Ombudsman Law,
- j) it contains an infringement of interest.

3.5 Actions and decisions to be taken upon preliminary examination

In the event that there are missing documents or the missing documents are not delivered within the determined period or the subject matter of the complaint is not within the mandate of the Institution, ***decision of inadmissibility*** is taken. This decision is notified to the complainant and the suspended term of litigation shall continue from the suspension date. In the event that the complaint is first filed to the Institution before applying to the relevant Administration, ***a decision of referral*** is taken.

The complaints lodged without exhausting the administrative remedies shall be decided to be sent to the relevant administration. This decision shall also be notified to the complainant.

The date when the complaints are lodged to the Ombudsman Institution shall be considered as the complaint date lodged to the administration. Upon delivery of the complaint to the relevant administration by the Ombudsman Institution, a new complaint may be lodged to the Ombudsman Institution within six months.

3.6 Requesting Information and documents

The information and documents which the Institution may request in connection with the matter it examines and investigates are to be submitted to the Institution within thirty days following the date of notification of such request. Upon request of the Chief Ombudsman or ombudsman, the relevant authority shall launch an investigation about those who refuse to submit the documents or information requested within this period without any justifiable reason.

The information or documents which are state secrets or trade secrets may not be submitted to the Institution by the highest-ranking post or board of the competent authorities by providing justifications for such refusal. However, such information or documents which state secrets are may be examined on the spot by the Chief Ombudsman or an ombudsman assigned by the Chief Ombudsman.

3.7 Assignment of an outside expert and hearing of witness

The Chief Ombudsman or ombudsmen may assign outside experts in connection with the subject matter under examination and investigation.

Without prejudice to the provisions of the Allowance Law No. 6245 of 10.02.1954, an expert fee which shall not exceed the sum calculated by multiplying the reference value of 1,000 for civil servants and of 2,000 for other persons with the coefficient applied to civil servants' monthly salaries shall be paid upon a decision by the one who effects the assignment. These payments shall be free of taxes or other deductions except the stamp duty.

The Chief Ombudsman or ombudsmen or experts may hear witnesses or relevant people in connection with the matter under examination and investigation.

3.8 Examination and investigation

The Institution shall finalize its examination and investigation within six months at the latest following the date of application. The Institution shall notify the outcome of its examination and investigation and, if any, its recommendations to the relevant authority and to the applicant. The Institution shall indicate to the applicant the remedies against the act, the application period and the authority to which the application should be filed.

If the relevant authority does not find the action to be performed in line with the recommendations of the Institution or the solution proposed by the Institution as feasible, it shall notify the reasons for it to the Institution in 30 days.

3.9 Resumption of the term of litigation

If the application is declined by the Institution, the suspended term of litigation shall resume upon the date of notification of the Institution's decision to the person concerned.

In case the application is accepted by the Institution, if the relevant authority does not launch any action or transaction within 30 days upon the Institution's recommendation, then the paused term of litigation shall resume.

If the Institution fails to finalize its examination and investigation within six months following the date of application, then the suspended term of litigation shall resume.

3.10 Withdrawing a complaint

Complainant may withdraw her/his complaint until the decision is made. In this case, the Ombudsman Institution shall terminate the examination and investigation.

3.11 Complaint Handling Process and Types of Decision

Complaint handling process

When a complaint application is received, it is handled through the following steps:

1. Receiving a complaint application and preliminary examination

- ◇ Recording the application
- ◇ Preliminary Examination
- ◇ Distribution to relevant Ombudsman
- ◇ Giving information

2. Conducting preliminary examination

- ◇ Preliminary Examination
- ◇ Invalid application
- ◇ Merging related applications
- ◇ Separating applications
- ◇ Decision of admissibility
- ◇ Decision of referral

3. Conducting examination and inspection

- ◇ Requesting information and document
- ◇ Hearing witnesses
- ◇ Assigning an expert
- ◇ Decision as to no ground exists for taking a decision
- ◇ Amicable settlement

4. Taking decisions

- ◇ Recommendation
- ◇ Refusal
- ◇ Partial Recommendation Partial Refusal

5. Following up the decisions

- ◇ Following up Recommendations
- ◇ Following up Partial Recommendation Partial Refusal
- ◇ Following up referral decisions
- ◇ Following up amicable settlement

Types of Decision

The Ombudsman Institution is entitled to issue recommendations, decisions of refusal or decisions as to no ground exists for taking decision as a result of the examination and investigation concerning the complaint.

Recommendation

When the complaint is found appropriate as a result of relevant examination and investigation, a recommendation shall be issued. In such decision, one or more of the following recommendations regarding the administration shall be included:

- a) Admitting the misconduct
- b) Compensating the damage
- c) Taking acts or action
- d) Making legislative amendment
- e) Withdrawing, aborting, changing or correcting the action
- f) Correcting the implementation
- g) Reconciliation
- h) Taking measures

Relevant authority shall inform the Ombudsman Institution within thirty days of the actions established and the measures taken in line with the recommendation or about its justification when it does not consider the recommended solution feasible.

Decision of refusal

When the complaint is found inappropriate as a result of relevant examination and investigation, a decision of refusal shall be issued.

Decision as to no ground exists for taking decisions

The Ombudsman Institution shall decide that there is no ground to take a decision when it terminates its examination and investigation, in the following cases:

- a) When the complainant withdraws her/his complaint,
- b) In case of demise when the complainant is a natural entity or termination of the legal entity if it is a legal entity,
- c) Compliance with the complaint request by relevant administration,
- d) When a lawsuit is filed against the subject matter of the complaint while examination and investigation is carried out

Amicable Settlement

The founding purpose and the reason of existence of the Institution is to seek amicable solutions and to settle disputes in an amicable manner. Therefore, the “Amicable Settlement” decision has been added to the “By-Law on the Procedures and Principles regarding the Implementation of the Ombudsman Institution Law” on 02 March 2017.

Amicable Settlement is one of the mostly applied decision methods of the Institution with a view to quickly and effectively resolving the conflicts. As the success of the Institution depends on its role as a mediator and an arbitrator based on its persuasiveness, amicable settlements are mostly preferred by the Institution serving as a bridge between citizens and the Administration.

It is important that both Parties come to a mutual understanding. Thus, while the examination and research process on the matter continues, Parties may be invited to amicable settlement. If the complaint is considered as reasonable and there is no need for any correspondences which may extend the period of a solution, a meeting is held with the Administration and possible solutions are discussed. After negotiations with the Administration, if the Administration decides to resolve the dispute with the complainant, then the amicable decision is made. The implementation of this decision is followed up by the Institution.

The percentage of “Amicable Settlement” decisions as of 31 December 2018 has been 12,30%.

3.12 Case summaries

The following is a selection of summaries of individual cases as per different subject matters dealt with by the relevant Ombudsmen in 2018:

a) Justice, National Defense and Security

Applications which are filed to our Institution relating to “justice” are generally about:

- ◇ prison conditions,
- ◇ management of prisons,
- ◇ attitudes and behaviors of prison staff,
- ◇ disciplinary punishments inflicted by the wardens,
- ◇ requests of transfer by the inmates to a prison which is located closer to their family,
- ◇ problems arising during contact or non-contact visits,
- ◇ health problems,
- ◇ conclusion of cases without delays,
- ◇ review of court decisions and motion for new trials,
- ◇ refusal of requests for experts,
- ◇ notarial procedures, debt or bankruptcy cases etc.

Applications relating to national defense, security and law enforcement activities include the following:

- ◇ appointments of military officers or petty officers,
- ◇ deleting archive records,
- ◇ personal rights,
- ◇ promotion and rights to live in lodging building for civil and military personnel,
- ◇ recruitment for Turkish Armed Forces,
- ◇ conscientious objection,
- ◇ situation of military students of the military schools which were abolished as per a Decree Law,
- ◇ denial of permit to possess a gun,

- ◇ cancelling unjust traffic tickets,
- ◇ negative behaviors of security officials etc.

Request of a prisoner to make a phone call with his convicted wife who was staying at another prison

The applicant who was a convict at a closed penitentiary institution stated that the trial process of him and of his wife were continuing at Yalova Criminal Court, that his wife was also in prison with their son of 13 month-old, that they were communicating with each other only by letter and therefore he hadn't heard his wife's voice for 9 months, that his wife had lost the joy of life and he was worried that his wife might harm herself, and therefore requested making a phone call with his wife.

Following examinations conducted by our Institution, it was detected that many families which are convicted at the same time were not allowed to make a phone call as per the sub-paragraph (o) of the paragraph 2 of Article 88 of the Regulation on Prison Management and Execution of Penalties and Security Measures, which lays out that "prisoners are not allowed to receive calls from outside the prison". Although it is legal not to allow the applicant to make a phone call with his wife, our Institution concluded that right to make a phone call for these persons should be considered within the scope of the right to respect the family life, and therefore the above-mentioned sub-paragraph should be amended and it would be appropriate to regulate the enjoyment of the right to make a phone call for two convicts staying at different prisons at the same time. In this regard, a Recommendation was issued for the Ministry of Justice to make necessary legal arrangements.

Request of a prisoner to be transferred to another prison which is located near to where his family lives

The applicant stated that he was a prisoner for 16 months in Tekirdağ province, but his family lived in Aydın province and due to financial reasons and health problems, his family couldn't visit him and therefore he delivered his request to be transferred, but it was rejected. Thus, the applicant sent his transfer request to our Institution and asked for a solution.

After carefully examining the complainant's grievance, it was found that according to the Law No. 5275, a convict may be transferred from the institution in which he is kept to another institution at his own request on certain conditions. However, the Law doesn't include any provision on making up for disadvantageous situations of the convicts who are unable to enjoy their right to be visited by their family as the family lives far away from the prison. When the case laws of the European Court of Human Rights as well as the Recommendations of the UN and the Council of Europe are examined, it is seen proper to place convicts in prisons which are close to their family. Additionally, it is clear that improving relations of the convicts with outside world is of utmost importance in terms of their rehabilitation and also reintegrating

them into society. Therefore, taking into account of the above-mentioned reasons, our Institution decided that the applicant should be transferred to a prison which is located closer to his family to facilitate the visits by his family and submitted a Recommendation to the Ministry of Justice to resolve the grievance of the applicant.

b) Protection of Family

Under the field of “protection of family”, the applications are usually filed regarding the following areas:

- ◇ acts relating to the violation of the right to marry and start a family,
- ◇ protection of family unity,
- ◇ protection of family structure and values,
- ◇ domestic violence, negligence and abuse,
- ◇ honor killings and feud,
- ◇ adoption and foster care services, and
- ◇ other matters concerning the protection of family.

In 2018, the majority of applications filed to our Institution have been about “protection of family unity”, and “other matters concerning the protection of family”.

Applications regarding prevention of violations of rights in visiting arrangements for the parent who doesn't hold custody after divorce

Many applicants stated, *inter alia*, that they had difficulties in establishing personal relationships with and relating to their child whose custody was held by other parent, and that the custody right was misused after divorce, and so in their applications, they requested that any behavior preventing the parent from establishing a personal relationship with his/her child should be prevented, that it was unacceptable to deliver the child for parental visit through the office of the execution as if the child is a “property”, that the principle “respect for family is being violated, and that necessary legal and administrative measures should be taken in line with the international agreements to which Turkey is a party such as European Convention on Human Rights, and the United Nations Convention on the Rights of the Child.

To analyze the problems in the context of these applications, our Institution held meetings with the applicants, relevant civil society organizations as well as the administrations, and organized a workshop on prevention of violation of rights in delivery of child.

After thorough examinations, it was found that some of the problems were stemming from the law while others were from administrative functioning. Therefore, our Institution issued Recommendations such as issuing new regulations regarding visitation of child by the parent

who doesn't hold custody, creating family meeting points/child delivery centers, discussing certain measures including a family mediation system in a platform participated by a wide range of representatives in public, providing pre-professional and vocational training programmes for judges and candidates of judge with a specific-case approach at sufficient level, increasing the quality, efficiency and prevalence of "Guidance Services for Family and Divorce Process" and so on.

c) Labor and Social Security

In 2018, the applications relating to the "Labor and Social Security" have been mostly about the following matters:

- ◇ the rights claimed from the Administration as the actual employer as laid down in the Labor Law and contract (problems of subcontracted workers),
- ◇ retirement fund,
- ◇ the rights of the workers employed by the Administration as laid down in the Labor Law and contract,
- ◇ social insurances,
- ◇ other subjects related to work and social security, problems of employees and employers, social security organization for artisans and the self-employed, occupational accidents, occupational health and security, working conditions etc.

And the specific subjects of the applications are as follows:

- ◇ incorrect transactions and procedures regarding premium debt restructuring and payment,
- ◇ receiving widow's pension,
- ◇ orphan's pension,
- ◇ registration of general health insurance,
- ◇ complaints about poor working conditions,
- ◇ retroactive premium payments, premium payments and pension procedures for agriculture insurance holders,
- ◇ foreign borrowing,
- ◇ correction of service scheme registrations,
- ◇ severance payments etc.

Paying a salary for the insured who continued to work abroad

The applicant stated that his request to receive pension was rejected by the administration as he continued to work abroad, and that his request was to receive pension taking into account his service period in Turkey and besides, there was no legal obstacle for that.

After conducting examinations, our Institution found that there wasn't any provision in the legislation which prevented the insured to receive pension even though the insured continued to work abroad. Therefore, it was decided that the act of the administration was against the law and a Recommendation was submitted to the Social Security Institution to provide pension for the applicant.

Request of a disabled insurance holder to be put on old age pension

The applicant stated in his application that even though he was entitled to receive old age pension due to his disability, he wasn't allowed to as there was a legal gap and the law was misinterpreted. Therefore, the applicant requested his grievance to be resolved and to receive pension.

To resolve this conflict, our Institution contacted the Social Security Institution and conducted necessary examinations and analyzed the relevant law and found that the applicant meets the requirements specified in the Article 28 as well as the provisional Article 4 of the Social Security Law No. 5510 in terms of insurance period and number of premium days. However, as there was a legal gap considering the applicant's disability, our Institution decided to issue a Recommendation for the Social Security Institution to start necessary works on amending the relevant legislation to remove the gap.

d) Children's Rights

The Ombudsman Institution aims at raising awareness among children and youth about the rights of the child as well as promoting the child rights, encouraging children's access to the Ombudsman.

The Ombudsman Institution makes recommendations on taking preventive, protective and supportive measures for children and on promoting the rights of children in line with the findings following the examination of the applications of the children. Furthermore, the Institution renders decisions with regard to the rights of child.

The major findings and proposals of the Ombudsman Institution are as follows:

- ◇ to protect and promote the rights of the child by providing qualified services to all children,

- ◇ to minimize geographical differences among regions with respect to principle of equal opportunity,
- ◇ to integrate policies for children in areas such as education, healthcare, social services etc. through a permanent specialized commission to be established on the rights of child in the Grand National Assembly of Turkey.

The Ombudsman Institution of Turkey plays an important role in protecting and promoting the children's rights as the children in Turkey can directly file an application to our Institution through the web page, which is exclusive for children.

In 2018, it was aimed to adopt a child-amicable approach in the case handling process for the applications filed by children, and to raise awareness about children's rights, and to reach more target groups. Thus, as a result of the activities of our Institution in terms of implementing the strategy of children's rights, we received many applications from children in 2018.

Another activity which has resulted in an increase in children's applications is cooperation activity with the Ministry of Education, which started in 2015. In order to raise awareness and promote the culture of seeking legal remedies, the information about our Institution and its activities has been added in course books such as "Human Rights, Citizenship, Democracy", which is taught at 4th grade in elementary schools as mandatory course, and "Democracy and Human Rights", which is among elective courses taught at secondary schools. As our Institution is introduced through these activities, many children from Istanbul and Ankara as well as from other cities voice their problems to us.

The applications filed by the children to our Institution have generally been about the following matters:

- ◇ the need for IT labs, library, and smart boards at schools,
- ◇ expensive school test books,
- ◇ security of the vicinity of schools,
- ◇ recruiting a security official at schools,
- ◇ building pavements on the road to schools,
- ◇ request for traffic lights, improving hygiene conditions at school,
- ◇ need for indoor sports facility,
- ◇ entitling the open admission right to enter vocational high schools,
- ◇ prevention of violence, bullying, bad behavior and attitude of teachers and managers at schools,
- ◇ extending the break times, and other similar matters.

Strategy for the Rights of the Child

The Strategy for the Rights of the Child was prepared by taking into account the legal obligations at national and international level. The opinions of children, their families as well as the staff of the Ombudsman Institution were also considered.

The Strategy aims at raising awareness of citizens about child rights by improving the management of cases concerning children as well as improving the relevant activities of the Institution so that the Ombudsman Institution is recognized as a reliable institution which facilitates the implementation of child rights.

The mission and vision of our Institution in this subject is to aim at claiming children's rights, protecting and implementing these rights and accepting that all children have independent rights within the laws, acting in compliance with the Convention on Child Rights, and listening to the children and handling the complaints to the benefit of children.

This Strategy has been introduced to the staff of the Institution through a training program and a Guidebook was prepared as a reference to make use in handling the complaints.

An example of an application filed by a child

The child applicant stated that his personal photos that he shared on his Facebook account was copied by someone else and posted on a fake Instagram account which was opened on his name, and asked for help to detect and punish the person who committed such cyber-crime. After talking to the child as well as the Information and Communication Technologies Authority, our Institution provided counselling for the applicant child and his family by giving information for the parents who should take legal action on behalf of their child regarding cyber bullying and cyber crimes.

In another application No.2018/7525, the applicant child stated that some of his friends in the classroom used violence against him, his mother told this to his teacher and to the headmaster, and contacted the families of his friends but his friends kept beating him and therefore his mother wanted to change his child's class but the headmaster rejected. After communicating with the Administration, informing them about the shortcomings detected in the management of peer victimization/bullying cases, drawing attention to the constructive dialogue between the parent and the school management to the best interest and effective access to the right to education of the child, the Ombudsman Institution issued Amicable Settlement decision and ensured the change of the classroom by the Administration.

Considering that such cases have increased recently, it is proposed that the legislation on education should be amended to regulate the bans on humiliating acts and ill-treatment such as peer victimization at schools.

Activities carried out with UNICEF in the field of child rights

The work plan for 2017-2018 between our Institution and UNICEF was finalized in December 2018. The work plan takes as national priority the fundamental instruments such as National Development Plan, Strategy and Action Plan for National Child Rights, takes as basis the international best practices and aims, *inter alia*, to strengthen the capacity of human rights watch mechanisms in order to prevent violations of child rights and to actively implement compensation actions.

The institutional activities carried out in this regard include comprehensive training programs on “Child Rights”, “Prevention of Violence against Children” “Violence at Educational Environment”, “Child Protection”, “Justice for Children”, and “Adoption of Child-amicable Approaches in Handling Complaints”.

Activities carried out with the civil society organizations in the field of child rights

As part of cooperation activities with the civil society organizations which advocate for rights such as International Children’s Center, our Institution carried out activities to provide information and introduce our Institution for the families, vocational groups as well as for children. Moreover, public service ads were published for children at the website of our Institution, and a Guide for Applicants were published for the families as well as for civil society organizations.

e) Education, Youth and Sports

Applications in the field of Education, Youth and Sports have been mostly about the following matters:

- ◇ exams and related practices,
- ◇ transactions, acts and actions concerning students,
- ◇ matters regarding higher education services,
- ◇ problems of teachers,
- ◇ works for the disadvantaged youth,
- ◇ other matters relating to the services provided in the field of education, youth and sports.

The majority of the applications have been filed to complain about the security measures taken by Exam Authorities such as Student Selection and Placement Center (OSYM), Ministry of National Education, and Open Education Faculty, and about the objections to the results of exams etc.

A case summary

In the application filed on behalf of 870 applicants, applicants complained about the curfew declared by the district governorate in Silopi, Şırnak between 5-24 April 2016 and stated that they failed the Entrance to High School Exam (TEOG) which was held on 27-28 April 2016 claiming that they weren't provided with public services sufficiently and couldn't meet their humanitarian needs, that the administration didn't take necessary and adequate measures to continue public services, and that the security measures weren't executed as required. Thus, the applicant asked for compensation with an amount of 10 thousand Turkish Liras for each applicant.

Our Institution conducted examinations to find if there were any acts or actions of the district governorate which were contrary to the law. So, whether the curfew decision was necessary or not, whether the public services were provided sufficiently or not, whether the right to education was violated or not, whether the applicants failed the exam because of the shortcoming of the administration, and whether the administration took necessary and adequate measures for the continuation of the public services or not were thoroughly looked into by our Institution. As a result, it was concluded that the curfew decision was declared on legal grounds in Silopi, which is located in a sensitive region where there are continuously armed conflicts with terrorist organizations, that curfew decision was declared to protect the safety and property of the citizens, that necessary measures were taken to make up for the interruption because of the curfew and that compensation courses for students were provided, students' failure in the exam was not related to the curfew as the factors for failure were based on many different reasons some of which might be subjective, and therefore our Institution issued refusal decision.

f) Economy, Finance and Tax

Most of the applications in this field have been about the following matters:

- ◇ Banking Transactions,
- ◇ Insurance Transactions,
- ◇ Capital Markets,
- ◇ Tender Procedures,
- ◇ Public Receivables and Debts,
- ◇ Tax Procedures,
- ◇ Financial Offenses and Trafficking and
- ◇ Other matters relating to Economy, Finance and Tax.

A case summary

The applicant stated that while he was working in Kars province, he was appointed to Kırıkale province, and that he wasn't paid bank promotion in his previous workplace and therefore, he orally asked for the payment of the promotion in his new workplace, but his request was denied.

Following the examinations and research, our Institution found that non-payment of the bank promotion might cause inequality between the staff and therefore affect negatively the working peace and issued a Recommendation to the Administration to enable the payment of bank promotion for the applicant.

g) Energy, Industry, Customs and Trade

Applications in the field of energy, industry, customs and trade have been mostly about the following:

- ◇ problems arising from getting mining license or cancelling it,
- ◇ acts of electricity distribution companies,
- ◇ standby credits given for enterprises by Small and Medium Enterprises Development Organization (KOSGEB),
- ◇ matters relating to domestic and foreign trade,
- ◇ consumer problems, and customs procedures.

A case summary

The applicant stated in his application that the electricity distribution board which was constructed on the pavement right across his workplace was against the development plan and it was constructed without receiving permission from the Municipality, thus asking for the removal of it.

After conducting examinations, our Institution found that the electricity board was not causing any obstacle for entrance to or exit from the workplaces or passing of pedestrians as it was constructed in a way to provide sufficient space for pedestrians, and it was built to provide electricity to the workplaces in the vicinity. Additionally, it was found that the necessary permission was obtained from the Municipality and the board was constructed in line with the related laws. Considering these and other relevant findings, our Institution issued a refusal decision.

h) Disability Rights

In 2018, the applications filed to our Institution by persons with disabilities and their relatives who took care of them were regarding complaints about determining the percentage in the medical board reports of disability.

As the percentage rate in the disability reports is a prerequisite to utilize tax reductions in education services, social benefits and many other services for the persons with disabilities, the applications in this field are increasing day by day.

The applications filed regarding the rights of the people with disabilities are given priority by our Institution. Our Institution has supportive practices in this field and contributes to the protection and promotion of the disability rights with its activities carried out in cooperation with other public institutions, civil society organizations as well as international organizations.

In this regard, our Institution took part in the process of the 11th Development Plan (2019-2023) prepared by the Ministry of Development and attended the meeting on “Improvement of Services for People with Disabilities” and presented the problems experienced by people with disabilities and suggested solutions to these problems. In addition, our Institution actively participated in many other meetings, workshops and conferences organized by relevant civil society organizations to contribute to the promotion of the disability rights.

Case summaries

The applicant stated that the stairs in the 2nd Mevsim Street in Osmangazi, Bursa were causing difficulties for the elderly, persons carrying baby strollers and especially for the people with disabilities in their daily life and therefore requested renewal of them by constructing a wheelchair ramp.

Our Institution issued “Referral Decision” and the administration responded that infrastructure works for natural gas pipelines were on the way and after they were completed, the requests of the citizen would be taken into account.

In another application, the applicant stated that people with disabilities in Düzce province were not able to travel with their Disability Identification Cards given by the Ministry of Family, Labor and Social Policies, that although there was a relevant legal arrangement, they were required to receive a separate card from the Municipality and therefore requested to be able to use it in public transportation. Our Institution issued a referral decision so that the matter would be examined by the Municipality of that province. Later, the Municipality informed us that they found out that the mentioned problem was not experienced in the municipal public buses, but in the private public buses and therefore they warned all the drivers of the public buses not to let any such problems happen again.

i) Food, Agriculture and Livestock

The applications filed to our Institution in the field of Food, Agriculture and Livestock include the following:

- ◇ matters concerning grievances resulting from floods causing agricultural damages,
- ◇ sale permissions for breeding animals,
- ◇ agriculture grants,
- ◇ allocation of pasture,
- ◇ renting agricultural lands,
- ◇ complaints about food safety etc.

A case summary

In an application relating to food safety, the applicant stated that he bought a drink which exceeded the expiration date by 51 days, and suffered from food poisoning, therefore requested that necessary sanctions should be imposed for the seller as well as for the relevant officials of the Ministry of Food, and municipal police officers for negligence in this matter.

After conducting examinations and research, our Institution found that the mentioned products were not on sale during the “Official Control” performed by the municipal police officers, and based on other reasonable results of the examinations, the request of the applicant to impose necessary sanctions on the municipal police officers for their negligence was rejected. However, our Institution issued a Recommendation for the Ministry of Agriculture and Forestry to perform the necessary official controls as required by the relevant legislation, and to provide training programmes for the staff on this matter.

j) Human Rights

The establishment of the Ombudsman Institution of Turkey is one of the most concrete examples of the steps taken by Turkey in the fields of rule of law, democracy and promotion of respect for human rights and protection of fundamental rights and freedoms.

Avoiding discrimination is one of the key priorities of the Ombudsman Institution. Therefore, the Institution very carefully examines the allegations on discrimination especially those that are gender-based and that include disabled persons.

Furthermore, through its amicable solutions and recommendations, our Institution contributes to the promotion of democracy and rule of law, improving the quality of the public services and the promotion of the right to legal remedy.

In 2018, we have observed an increase in the applications most of which are individual applications, and also the applications filed by legal persons such as the civil society organizations and professional organizations. Increased trust in the Ombudsman as well as improved cooperation with the Ombudsman may be regarded as the reason of this increase in the applications.

In the field of human rights, the following matters are handled by our Institution:

- ◇ right to life,
- ◇ protection of material and moral interests,
- ◇ ill-treatment,
- ◇ freedom of expression,
- ◇ personal liberty and safety,
- ◇ freedom of thought, conscience, religion and worship,
- ◇ right of privacy and protection of personal data,
- ◇ freedom of assembly and association,
- ◇ prevention of all forms of discrimination,
- ◇ freedom to vote and to be elected,
- ◇ immunity of domicile,
- ◇ right to travel and right of establishment,
- ◇ disorderly conducts and behaviors,
- ◇ applications of convicts, victims of terror and duty,
- ◇ prohibition of forced labor,
- ◇ prevention of enjoyment of right to information and petition, etc.

In addition to the above-mentioned subject matters, there are other categories of rights such as women's rights, children's rights, disability rights, rights of refugees and asylum seekers, which are separately and specifically handled, and therefore they are not mentioned under the human rights category but in the relevant sections of this Report.

Case summaries

The applicant stated that his convicted son was treated badly while he was being transferred to another prison, that his son's lawyer confirmed this incident, and that his son experienced severe psychologic trauma due to this event and therefore he asked our Institution to examine this event.

Following examinations and research conducted by our Institution, it was found that there were minor psychical injuries which would be recovered by simple medical intervention and that these minor injuries resulted from the convict's resistance to body search which is generally conducted for all the convicts during their transfer. However, our institution issued a Recommendation to the Ministry of Justice to carry out works on increasing accountability regarding claims of battery in the areas where there are no security cameras at the prisons, to carefully examine the applications regarding "torture, maltreatment, and any other act contrary to human dignity", and to take necessary measures to carefully record injuries resulting from battery including the injuries which may be recovered through simple medical intervention.

In another application, the applicant complained that minors were illegally being kept in an overcrowded prison which exceeded its capacity, that this constituted a great risk for the children as well as for the officials on duty as the prison was not being monitored 24 hours a day and adequately; therefore, he asked for the examination of this matter and the prevention of any potential danger.

It was found that the mentioned prison was characterized as a "closed penal execution institution for adults" which were built as a solution for overcrowded prisons according to the Law on the Execution of Penalties and Security Measures No. 5275, that minors in this prison were kept in the parts which were allocated for them, and that necessary measures were taken for them; therefore, this situation was contrary to the Law No. 5275.

However, it was also found that totally 344 minor remand prisoners were kept in this prison having a capacity to keep 252 persons, and that the occupancy rate was around 136% at this institution. Therefore, based on the principle to observe the best interest of the child, our Institution issued a Recommendation to the Ministry of Justice to immediately transfer the children to another institution, and if this was not possible, to allocate additional block for the children, and to speed up legal and administrative steps in order to strengthen modern child justice system.

k) Women's Rights

In 2018, the applications in the field of women's rights have mostly been filed regarding the following matters:

- ◇ equality of opportunities for women and men,
- ◇ violations of rights for the parent who doesn't hold the custody in establishing personal relationship with their child and visitation,
- ◇ requests for social benefits of a mother having triplet,
- ◇ providing transportation for women workers working at night shift,

- ◇ services provided at Municipal Guesthouses for Women, and Centers for Prevention of Violence and Monitoring and
- ◇ other related matters.

A case summary

Decision on prohibition of discrimination and on positive discrimination towards female employees: Upon conducting examinations concerning a complaint of a female applicant who objected to the requirement of being a male to be recruited as a fireman; our Institution reminded the Administration to act by taking into account of the relevant international and national legislation particularly of the Convention on the Elimination of All Forms of Discrimination against Women, and of the ILO Convention No. 111 on Discrimination (Employment and Occupation).

Similarly, upon receiving a complaint from an applicant who was working as a security officer at night, our Institution conducted examinations and resolved the matter by reminding the Administration about the Regulation on the Prohibition of Night Employment of Women as well as about the responsibilities of the Administration to take necessary measures.

Activities of the Ombudsman Institution in terms of promotion and dissemination of women's rights

- ◇ *Workshop on Increasing the Effectiveness of the Mechanisms for Prevention of Domestic Violence against Women and Children*

Considering that the cases of domestic violence against women and children increased in 2018, our Institution decided to prepare a special report in order to identify shortcomings in the functioning of existing mechanisms and present relevant solutions.

In this regard, a workshop on “Increasing the Effectiveness of the Mechanisms for Prevention of Domestic Violence against Women and Children” was organized on 19 February 2018 with the participation of the representatives from the Committee on Equal Opportunities for Women and Men, Ministry of Family, Social Services and Labor, Ministry of Interior, Ministry of Justice, relevant Civil Society Organizations, academicians as well as international organizations.

- ◇ *Works on Gender Equality*

Our Institution takes part in activities concerning gender equality in cooperation with public institutions and Civil Society Organizations. As a stakeholder, our Institution participated in the activities of the Association for Monitoring Gender Equality within the framework of the project “Enhancement of Participatory Democracy in Turkey: Monitoring Gender Equality.”

- ◇ Participation in the Regional Forum for Promoting the Implementation of Istanbul Convention in the Western Balkans and Turkey

The Ombudsman Ms. Özlem Tunçak attended as a panelist to the Regional Forum organized by UN Women Europe & Central Asia Regional Office on 27-28 November 2018 in Skopje, Macedonia. Organized under the theme “Ending Violence against Women in the Western Balkan countries and Turkey: Implementing Norms, Changing Minds, the Regional Forum hosted many representatives from public organizations, and Civil Society Organizations as well as the academicians working in the field of women’s human rights from the Balkan countries and Turkey. As a panelist for the Session 1: The 4Ps of the Istanbul Convention, Ombudsman Tunçak delivered her opinions regarding ending violence against women, promoting gender equality and non-discriminatory attitudes and behaviors, and comprehensive policies on ending violence against women.

I) Public Personnel Regime

Applications received in the field of Public Personnel Regime are mostly about the following subject matters:

- ◇ Disciplinary punishment and dismissal,
- ◇ Recruitment (including problems regarding not being appointed as civil servant, limitations on vacancy, etc.),
- ◇ appointment, transfer and replacement,
- ◇ Appointment, transfer, assignment and replacement,
- ◇ Financial rights,
- ◇ Civil service exams (written exams and oral exams conducted by the public institutions),
- ◇ Promotion,
- ◇ Problems of contractual and temporary staff, Complaints regarding attitudes and behaviors of public officials (including mobbing and ill-treatment), Other matters regarding public officials, Cadre and/or positions, Social rights and benefits, Duties, responsibilities and general rights, Personnel within the scope of privatization, Personnel assessment etc.

Table 2: The number of the complaints received by the Ombudsman Institution of Turkey in 2018 regarding public personnel regime

Public Personnel Regime	Number of Cases	Percent (%)
Disciplinary punishment and dismissal	1333	28,33
Recruitment (including problems regarding not being appointed as civil servant, limitations on vacancy, etc.), appointment, transfer and replacement	992	21,08
Appointment, transfer, assignment and replacement	699	14,86
Financial rights	546	11,6
Civil service exams (written exams and oral exams conducted by the public institutions)	275	5,80
Promotion	217	4,61
Problems of contractual and temporary staff	189	4,02
Complaints regarding attitudes and behaviors of public officials (including mobbing and ill-treatment)	172	3,66
Other matters regarding public officials	116	2,47
Cadre and/or positions	72	1,53
Social rights and benefits	51	1,08
Duties, responsibilities and general rights	25	0,53
Personnel within the scope of privatization	12	0,26
Personnel assessment	8	0,17
Total	4.705	

A case summary

The decision based on the fact that everybody has right to work: Upon examining the complaint of an applicant who wasn't recruited on the grounds that the applicant wasn't eligible to be appointed as a civil servant due to his background checks and personal security investigation records, our Institution concluded that this act was against the law and equity, because this background checks and personal security investigation relied on a decision of deferment of the announcement of the verdict which should normally not produce a legal consequence. Therefore, the Ombudsman Institution issued a Recommendation to the Administration stating that the applicant should be recruited.

m) Services Provided by Local Governments

Our Institution received many applications in 2018 in the field of "Services provided by local governments". The subject matters of these applications are as follows:

- ◇ Cancelling, amending or implementing the decisions of Metropolitan Municipality, and City Council
- ◇ Procedures relating to development plans (parceling)
- ◇ Permission procedures
- ◇ Infrastructure services
- ◇ Public transportation services
- ◇ Water services
- ◇ Financial services
- ◇ Urban transformation
- ◇ Parking services and ensuring traffic order and pedestrian safety
- ◇ Waste management
- ◇ Community policing
- ◇ Landscape
- ◇ Other matters relating to services provided by local governments

A case summary

The complainants stated that they were growing agricultural products in their land and their activity was registered on the system built for farmers, which meant, their agricultural activity was clearly seen in the system and the region where their parcel was located was characterized as agricultural land; however, the Municipality launched development/zoning plan in the region. Therefore, they requested that these development plans be cancelled in the agricultural land.

After conducting examinations and research, it was found that the abovementioned land was an arable land where intensive agricultural activities were being carried out, that the approval of these development plans was against the applicable laws, and the rejection of the applicant's request to cancel them was not righteous. Considering all these and other factors, our Institution issued a Recommendation to the Municipality to cancel the development plans.

n) Right to Property

Regarding the "Right to Property", the Ombudsman Institution of Turkey receives applications concerning the followings;

- ◇ immovable of which the citizens claim ownership, but they are classified as forest, meadow etc. and passed into the ownership of the Treasury,

- ◇ applications claiming that the public authority seizes the privately-owned immovable without expropriation, applications concerning the fact that the immovable of citizens within the framework of development plans are not expropriated for years since they are allocated for public services and citizens are not able to dispose of their immovable and
- ◇ applications concerning the unpaid expropriation prices despite court decisions.

The right to property provides the individual to peacefully enjoy his/her possessions, and to dispose of them except in the public interest and subject to the conditions provided for by law. This right is guaranteed by the Article 35 of the Turkish Constitution. The restrictions regarding the right to property are stated in the same Article. Similar regulations are also available in the Protocol No 1 of the European Convention on Human Rights.

According to the Article 35 on the Right to Property in the Turkish Constitution, “Everyone has the right to own and inherit property. These rights may be limited by law only in view of public interest. The exercise of the right to property shall not contravene public interest”.

Furthermore, according to the Article 1 on the “Protection of property” of the Protocol No 1 of the European Convention on Human Rights, “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”.

As an example, which is the most striking one among the applications filed to the Ombudsman Institution of Turkey regarding violation of “Right to Property”, the immovable owned by our citizens are defined as lands allocated for public services by land use plans and renovations made in these plans and their disposal are legally restricted. This subject is regulated in the Article 10 of the Development Law, which states that the municipalities shall prepare their 5-year development programs within 3 months at the latest as of the entry into force date of the development plans and the lands which are within the borders of five-year development programs and allocated to the public authorities shall be expropriated by relevant public authorities within the duration of this program. However, relevant public authorities do not start any actions for long years; therefore, our citizens become suffering parties as they are not entitled to dispose of their immovable during this period.

A case summary

The applicant stated that expropriation price which was decided to be paid for him was not paid completely, and he was still waiting for the rest of the price to be paid. Thus, he asked for the payment claiming that there was injustice in payments.

After analyzing the case, it was found that the expropriation price was paid in installments and the rest would be paid as earliest as possible depending on the budget of the Municipality as per the Article 34 of the Law No 5018 on Public Finance Management and Control Law.

However, according to the Article 125 of the Constitution, “The administration shall be liable to compensate for damages resulting from its actions and acts”, and according to the other relevant provisions on this matter, our Institution decided that it was contrary to the law not to pay the rest of the price as required and issued a Recommendation to Ankara Metropolitan Municipality to make the rest of the payment as soon as possible.

o) Population, Citizenship, Refugee and Asylum Rights

In 2018, the applications filed in the field of “Population, Citizenship, Refugee and Asylum rights” were mostly regarding the following matters:

- ◇ civil registration services and procedures,
- ◇ citizenship services,
- ◇ problems relating to visa and passport,
- ◇ problems of Turkish citizens living abroad temporarily or permanently,
- ◇ problems of asylum seekers and fugitives, and
- ◇ other related matters in this field.

The By-law on the Procedures and Principles to be Complied with in the Provision of Public Services, which was put into effect after being published in the Official Gazette No. 27305 dated 31/07/2009, lays down the rules for all public institutions and agencies in order to provide services with a transparent public management approach, to enable that services are provided with simplified methods, quickly and at low cost, and to simplify the procedures and reduce red tape. And in 2018, after analyzing the complaint applications, our Institution observed that the complained acts and actions, attitudes and behaviors of the Administration in the field of population and citizenship services were contrary to the aforementioned By-law.

A case summary

The applicant stated that he had been living in Turkey for 25 years and applied to become a Turkish citizen but wasn’t provided with any feedback from the authorities, therefore, requested to receive a reply regarding his application.

After contacting the Ministry of Interior, we found that the application was still being handled and the procedures were still continuing, that the necessary documents such as applicant’s entry date to Turkey etc. were obtained by the governorate office and the applicant’s name was on the list of the persons who became Turkish citizens and that when the procedures were

finalized, the applicant would be notified. Therefore, Amicable Settlement decision was issued by our Institution.

p) Forestry, Water, Environment and Urbanization

The applications filed to our Institution in this field are usually relating to the following subject matters:

- ◇ Procedures on public works and housing
- ◇ Infrastructure services
- ◇ Fight against natural disasters
- ◇ Urban transformation services
- ◇ Environmental and Noise Pollution
- ◇ Other related matters

A case summary

The Applicant stated that a landslide occurred right in front of his house, which changed the flow route of a stream towards his house; therefore, the safety of their life and property was under risk. Thus, he requested a retaining wall to be built between his house and the stream.

After looking into the case, our Institution issued a Recommendation to the General Directorate of State Hydraulic Works to urgently take necessary measures for the safety of the applicant.

q) Healthcare

In the field of healthcare, our Institution usually receives applications relating to the following matters:

- ◇ Right to Health
- ◇ Patient Rights
- ◇ Pharmaceuticals and pharmacy
- ◇ Other related matters

The complaints are mostly about the attitudes and behaviors of the hospital staff, doctors and dentists during treatment, misdiagnosis, wrong treatments, negligence of the medical staff, request to change family practitioner, request for cancellation of penalties imposed by the Social Security Institution on the grounds of wrongful transactions, shortcomings in the appointment system for the patients, etc.

A case summary

The applicant stated that his spouse had inflammatory articular rheumatism due to which she underwent continuous treatment in a state hospital located in Afşin, Kahramanmaraş, and that they visited the hospital for treatment and controls and came back on the same day. During this process, the transportation expenses of him as the patient's companion used to be paid in the past; however, this practice was stopped as additional documents were required. Stating that his spouse could not go to hospital alone due to the severity of her condition and he had to accompany his spouse, he claimed that his transportation expenses should be paid.

After carefully examining the case, our Institution issued a Recommendation to the Social Security Institution to cover the transportation expenses of the applicant, and to the Ministry of Health to warn the providers of health services not to cause any new grievances and to take necessary measures accordingly.

r) Social Services

The applications filed to our Institution regarding "Social Services" are usually about the following subject matters:

- ◇ Social services and benefits for martyr's relatives and veterans
- ◇ Pensions for the needy and orphans at the age over 65
- ◇ Services provided for the persons in need of protection, care and help
- ◇ Social services and benefits for the elderly
- ◇ Procedures regarding social solidarity incentives
- ◇ Ensuring social justice
- ◇ Other related matters

A case summary

The applicant stated that his house caught fire on 17.07.2017 due to an unknown reason, and that his house was completely damaged. Therefore, he applied to the Disaster and Emergency Management Administration for financial support but was rejected as he already had social insurance. As a result, the applicant requested a house to be built for himself and to get support for his basic needs.

Looking into the case, our Institution found that the request for aid by the applicant was rejected by the Disaster and Emergency Management Administration on the grounds that the application was not filed on time as the Law required the documents to be delivered within 15 days of the disaster. However, it was found that the applicant filed his application on time, and the delay was due to system and post failures. As a result, our Institution issued

a Recommendation to the Disaster and Emergency Management Administration to provide emergency benefit for the applicant, and to the Governorate to improve the existing system to prevent any shortcomings, which might result in grievances for the citizens.

s) Transportation, Press and Communication

The applications filed to our Institution in this field are usually about the following subject matters:

- ◇ Highway, railway, sea, inland water, dangerous goods and combined transport
- ◇ Shipping trade
- ◇ Telecommunication facilities
- ◇ Prohibition of Access to certain Internet sites
- ◇ Unauthorized share of personal data
- ◇ Complaints regarding IT services
- ◇ Problems regarding the services provided by High Speed Trains
- ◇ Services of the General Directorate of Turkish Post
- ◇ National and foreign media organs

A case summary

The applicant company stated that their webpage was blocked at the schools affiliated with the Ministry of National Education; thus, they sent a petition to the Ministry asking for the removal of the block, and that following our Institution's Referral Decision, the Ministry informed the applicant that they didn't receive such petition. As a result, the applicant requested the necessary examinations and research to be conducted and the removal of the block.

Our Institution looked into the case by conducting examinations and research and found out that the company's webpage was blocked without any sufficient legal grounds and that the act of the Ministry was not fair. Therefore, we issued a Recommendation to the Ministry of National Education to remove the block of the webpage of the applicant company.

CHAPTER IV

2018
ANNUAL REPORT

INTERNATIONAL COOPERATION

4.1 Projects

4.2 International
Cooperation Activities

4.3 Relations with Other
Ombudsman Institutions and
Networks around the World

4.4 Foreign Visitors

4.5 Publications

INTERNATIONAL COOPERATION

4.1 Projects

The Ombudsman Institution attaches a great importance to cooperate and collaborate with its international counterparts and partners. In this regard, it implements EU and internationally funded projects.

◇ *Project on the Empowerment of the Role of Ombudsman Institution in the Protection and Promotion of Human Rights*

As the Beneficiary, the Ombudsman Institution, implements the preparatory works of “**Empowerment of the Role of Ombudsman Institution in the Protection and Promotion of Human Rights Project**” which includes Twinning Light and Technical Assistance Components under the scope of IPA fund and 2015 programing.

It has initiated the twinning light component in cooperation with Portuguese Ombudsman with the kick-off meeting held on 12 November 2018 with the participation of the Speaker of the Grand National Assembly of Turkey H.E. Binali Yıldırım.



Photo: The Kick-off meeting of the Project on the Empowerment of the Role of Ombudsman Institution in the Protection and Promotion of Human Rights, 12 November 2018

◇ *Project on Strengthening the Institutional Capacity of the Ombudsman Institution*

As part of the activities carried out within the scope of the **Project on Strengthening the Institutional Capacity of the Ombudsman Institution** financed by the Swedish International Development Cooperation Agency (SIDA) and implemented in cooperation with the United Nations Programme (UNDP), Professor Alan Miller, who was recruited by the UNDP as an

independent expert, provided training programmes on Human Rights Based Approach for the Ombudsman experts at our Institution on 29-30 January 2018.

◇ ***The activities within the “Support for Improvement in Governance and Management (SIGMA)”***

Upon request of our Institution, a cooperation has been launched with SIGMA, which is a joint initiative of the OECD and the EU, in order to prepare a “Guidance on Good Governance Principles”. The aim of this activity is internalizing a “citizen friendly” understanding within the administrative mechanism, fully ensuring the rule of law by protecting the fundamental rights and freedoms in providing services, and using the good governance principles as a basis in conducting works and procedures by ensuring that good governance principles are adopted by the public actors. In this regard, João Sant’anna, the program expert of SIGMA, provided two-day training for the experts of our Institution on 27-28 June 2018.

4.2 International Cooperation Activities

In 2018, the Ombudsman Institution has actively participated in many international activities which include:

- ◇ Regional conference on “Exchange of best practices of addressing human rights violations with a special focus on combating discrimination” for National Human Rights Institutions of the Western Balkans and Turkey, 15 -16 February 2018, Sarajevo, Bosnia and Herzegovina
- ◇ European Network of Ombudsman (ENO) Conference, 07-09 March 2018, Brussels, Belgium
- ◇ Conference on “The Ombudsman as a Protector of Social, Cultural and Environmental Rights”, 29-31 May 2018, Skopje, Republic of Macedonia
- ◇ Annual Seminar organized by the European Commission against Racism and Intolerance (ECRI), 24 May 2018, Strasbourg, France
- ◇ 15th Baku International Conference of Ombudsmen, 20-21 June 2018, Baku, Azerbaijan
- ◇ 3rd Meeting of the Steering Committee of OIC Ombudsman Association (OICOA), 10-11 September 2018, Khartoum, Sudan
- ◇ ENOC 22nd Annual Conference, 19-22 September 2018, Paris, France
- ◇ Baku Forum on Sustainable Development, 25-26 October 2018, Baku, Azerbaijan
- ◇ Conference on the occasion of the 40th anniversary of the International Ombudsman Institute (IOI), 01-03 October 2018, Brussels, Belgium
- ◇ Forum for Regional Ombudsmen, 19 November 2018, Sofia, Bulgaria

- ◇ Asian Forum on Human Rights, 22-23 November 2018, Samarkand, Uzbekistan
- ◇ Conference on Protecting Human Rights in the Eurasian area: Exchange of good practices of Ombudsmen, Moscow, 08 November 2018, Moscow, Russian Federation
- ◇ Regional Forum for the Promotion of the Istanbul Convention in the Western Balkans and Turkey, 27-28 November 2018, Skopje, Macedonia
- ◇ Rabat Center for Training and Exchange On Mediation, 9th Training Session of the Collaborators of Mediators Members of the AOM, 28-29 November 2018, Rabat, Morocco
- ◇ Regional Conference on Advocacy for Human Rights and Non-Discrimination by National Human Rights Institutions in the Western Balkans, 29 - 30 November 2018, Sarajevo, Bosnia and Herzegovina



Furthermore, the Institution itself organized national and international conferences and workshops on human rights issues such as rights of migrants and rights of women and children. At the end of each conferences and workshops, a report was issued.



4.3 Relations with other Ombudsman Institutions and Networks around the world

Relations with other Ombudsman Institutions

So far, our Institution has signed bilateral memorandums of understanding with Ombudsman Organizations of 7 different countries and 2 of them were signed in 2018:

- ◇ A memorandum of Understanding was signed with Serbia, the Protector of Citizens (Ombudsman)
- ◇ The existing Cooperation Agreement with Ukraine, Parliament Commissioner for Human Rights was updated and signed.



Photo: The Chief Ombudsman Mr. Şeref Malkoç, receiving Mr. Zoran Pasalic, the Protector of Citizens (Ombudsman) of the Republic of Serbia

Relations with the International Ombudsman Networks and Associations

In 2018, the Ombudsman Institution has maintained its close cooperation with the international Ombudsman Associations and Networks. As a result of Sofia Declaration, which was adopted during the Regional Ombudsman Forum on “Protecting Human Rights: Challenges of Balkan Cooperation” held on 19 November 2018 in Sofia, it was agreed to set up a Network of National Ombudsmen of Balkan Region. With the Sofia Declaration signed by our Institution, the number of Ombudsman Networks and Associations of which our Institution is a member has increased to 8.

In this context, our Institution is currently a member/part of;

- ◇ International Ombudsman Institute (IOI)
- ◇ European Network of Ombudsmen (ENO)
- ◇ Association of Mediterranean Ombudsmen (AOM)
- ◇ Asian Ombudsman Association (AOA)

- ◇ Organization of Islamic Cooperation Ombudsman Association (OICOA)
- ◇ European Ombudsman Institute (EOI)
- ◇ Network of Regional Ombudsmen of Western Balkans
- ◇ Network of National Ombudsmen of Balkan Region.

Working visits

As the Ombudsman Institution of Turkey places a great deal of importance to establishing close collaboration and strengthening relations with the Ombudsman Institutions of other countries, the Chief Ombudsman as well as the Ombudsmen pay working visits to countries.

The working visits in 2018 to the Ombudsman Institutions or counterpart Institutions of other countries are listed below:

- ◇ The Ombudsman Institution of the Turkish Republic of Northern Cyprus, 23-24 January 2018
- ◇ Ombudsman Institution of the Republic of Niger (Le Médiateur de la République du Niger), 21-23 February 2018
- ◇ General Inspection Organization of Iran, 27 February-01 March 2018
- ◇ Protector of Citizens of the Republic of Serbia, 10-12 July 2018
- ◇ Ukrainian Parliament Commissioner for Human Rights, 24-26 July 2018
- ◇ Ombudsman Institution of Tunisia, 03-04 December 2018



In addition, as part of a ***Project on Spreading the culture of legal remedy***, the Institution paid working visits in 2018 to some European countries where 6 million Turkish citizens live, which include:

- ◇ Germany
- ◇ France
- ◇ Belgium

During these working visits, the Chief Ombudsman visited his counterparts with the aim of strengthening the relations as well as exchanging experiences and best practices regarding human rights.

4.4 Foreign Visitors

During the year, the Institution received a number of visitors and delegations from other countries with a view to familiarizing themselves with the Institutions' activities.

Below is a list of the individuals and delegations that visited the Institution in 2018;

- ◇ 10 January 2018, Chris Cooter, Ambassador of Canada to Turkey
- ◇ 21 January 2018, Valérie Sorel, Minister-Counsellor and Consul of Canadian Embassy to Turkey
- ◇ 26 January 2018, Omar Alghabra, Parliamentary Secretary to the Minister of Foreign Affairs of Canada (Consular Affairs)
- ◇ 05 April 2018, Yves Cruchten, General Rapporteur of the Parliamentary Assembly of the Council of Europe (PACE), and his delegation
- ◇ 26 April 2018, Meder Abakirov, Minister-Counsellor of the Embassy of the Kyrgyz Republic to Turkey, and Makhabat Turdumamatova from the Ombudsman Institution of Kyrgyzstan
- ◇ 8 May 2018, Zoran Pasalic, the Protector of Citizens (Ombudsman) of the Republic of Serbia, and his delegation
- ◇ 09 May 2018, Prof. Stefan Trechsel, Commissioner of the International Commission of Jurists (ICJ), and his delegation
- ◇ 06 June 2018, Waleed A. Elkhajji, Ambassador of Saudi Arabia to Turkey
- ◇ 07 June 2018, a Delegation from the Election Observation Mission of OSCE
- ◇ 10 July 2018, Fiona Morrison, the Undersecretary for Migration, and Şirin Türkay, Director of Migration Policies and Projects from the British Embassy to Turkey
- ◇ 18 September 2018, a Delegation from the European Parliament's Subcommittee on Human Rights
- ◇ 18 September 2018, Anders Siegmundfeldt, Undersecretary/Deputy Head of Mission, and Katrine Thorup and Anna Nolsoe from the Embassy of Denmark to Turkey
- ◇ 17 October 2018, Dunja Mijatovic, the Commissioner for Human Rights of the Council of Europe
- ◇ 30 November 2018, Marjanne de Kwaasteniet, Ambassador of Netherlands to Turkey

4.5 Publications

The Ombudsman Institution of Turkey has so far published three special reports on:

- ◇ coal mining accidents and occupational health and safety in mining sector,
- ◇ judicial system in Turkey and
- ◇ the Syrians in Turkey.

The last thematic report of the Ombudsman Institution, which is “Syrians in Turkey”, is an initiative of the institution to conduct a comprehensive study of the situation of the 3,4 million Syrians under temporary protection in Turkey and to form policy proposal to relevant authorities. This special report, which was published in 2018, has been shared with all Ombudsmen and national human rights institutions in the world.

The Report is accessible through the Institution’s web page (<https://www.ombudsman.gov.tr/syrians/report.html>).



CHAPTER V

2018
ANNUAL REPORT

STATISTICS

- 5.1 2018 at a Glance
- 5.2 General Statistics

STATISTICS

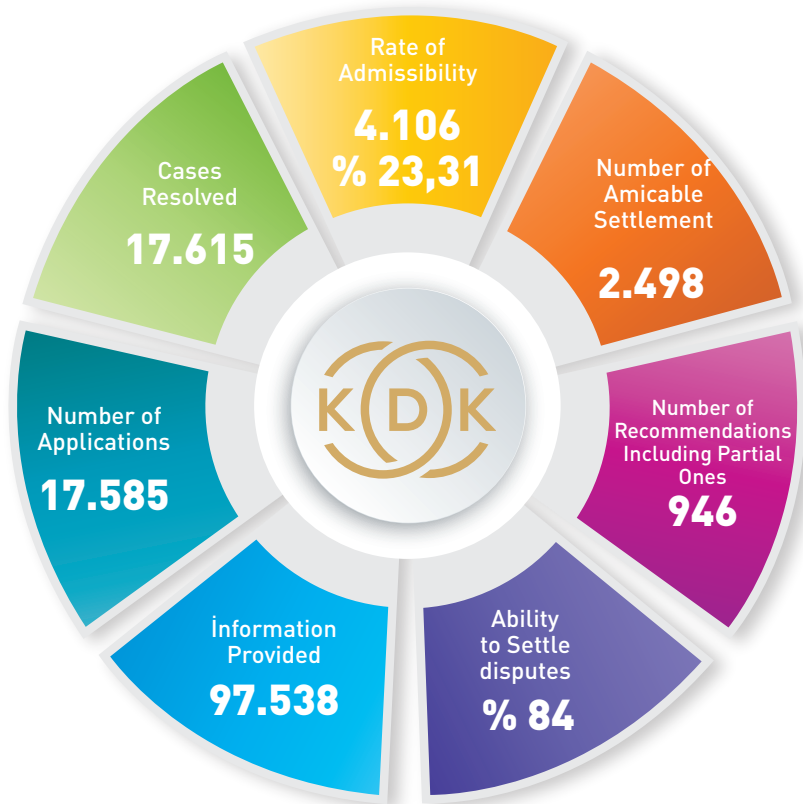
5.1 2018 At a Glance

The Ombudsman Institution in 2018:

- ◇ received 17,585 applications
- ◇ resolved 17,615 cases
- ◇ examined 4.106 cases*
- ◇ issued 2.498 amicable settlement decisions
- ◇ issued 946 Recommendations including partial ones
- ◇ had 84% ability to settle disputes
- ◇ fulfilled 97,538 requests for information

*case files that passed through investigation and examination

Figure 1: 2018 at a glance



5.2 General Statistics

As of 2013, a total of **59.567** complaint applications have been received.

Table 3: Number of complaints as per years

Number of Complaints	2013	2014	2015	2016	2017	2018	Total
Complaints filed	7.638	5.639	6.055	5.519	17.131	17.585	59.567

When the number of complaints in 2018 is compared with the number of complaints in 2017, it is seen that the increase rate is **2,65%**.

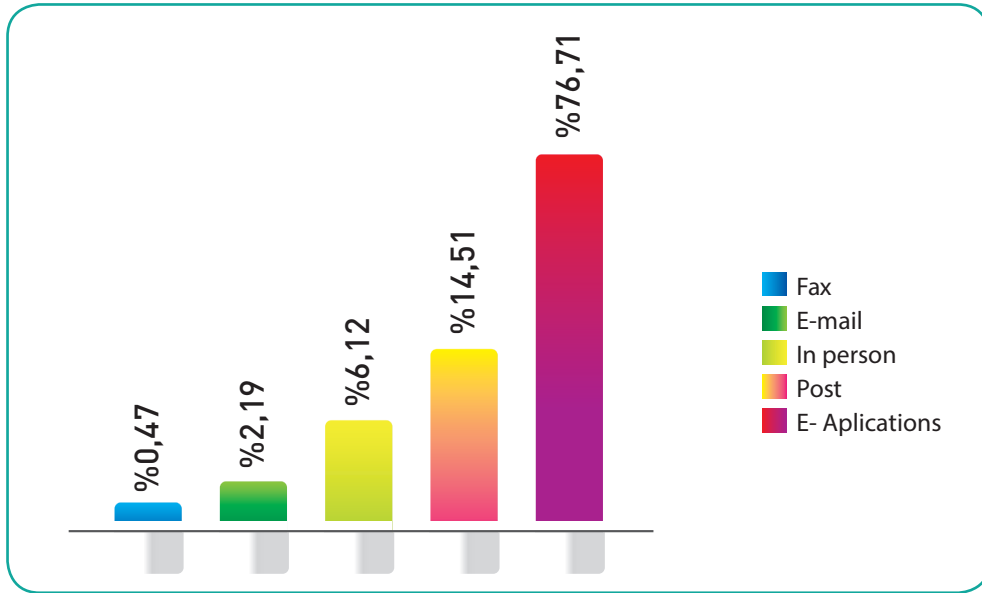
Table 4: Comparison of complaints as per years

Year	2016	2017	2018	2017-2018 Increase Rate (Percentage) %
Total Complaints	5.519	17.131	17.585	2,65

In 2018, the majority of applications have been filed through E-Application method with the rate of **76,71%** which is followed by “By post” with the rate of **14,51%**.

Table 5: Distribution of the complaints as per application methods for 2017-2018

Application Method	2017	2017 %	2018	2018 %	Rate of Change %
By fax	133	0,78%	83	0,47%	-37,59%
In person	1263	7,37%	1076	6,12%	-14,81%
By post	2191	12,79%	2552	14,51%	16,48%
By E-Application	13312	77,71%	13489	76,71%	1,33%
By E-mail	232	1,35%	385	2,19%	65,95%
TOTAL	17.131		17.585		2,65%

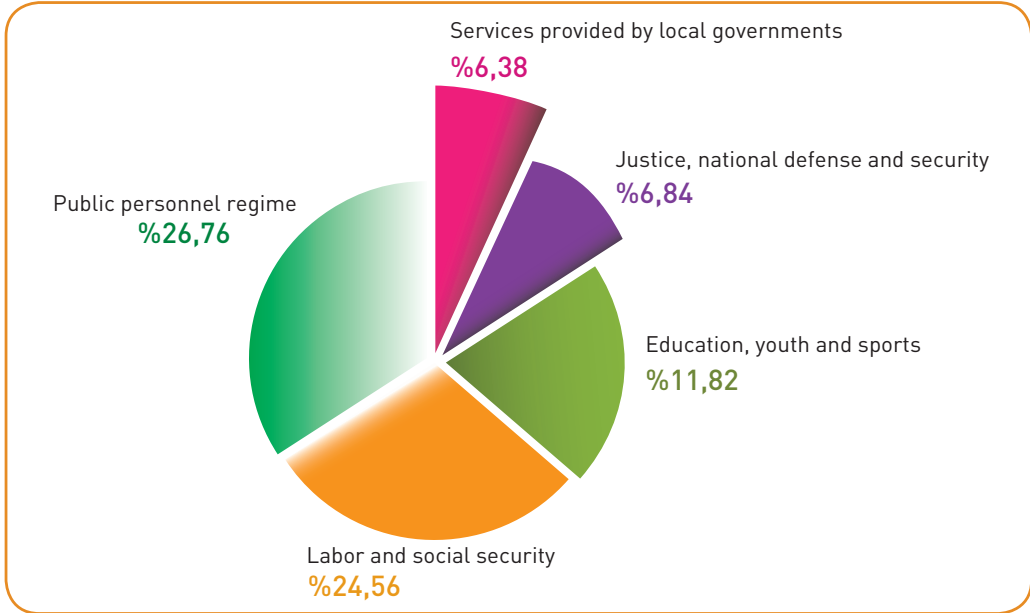
Figure 2: Distribution of the complaints as per application methods for 2018

In 2018, the majority of the complaints have been about “Public Personnel Regime” with a rate of **26,76 %** followed by the subject matter “Labor and Social Security” with a rate of **24,56 %**.

Table 6: Distribution of the Complaints as per Subjects in 2018

Subject of the Complaint	2018	%
Public personnel regime	4705	26,76 %
Labor and social security	4319	24,56 %
Education, youth and sports	2079	11,82 %
Justice, national defense and security	1202	6,84 %
Services provided by local governments	1122	6,38 %
Child rights	786	4,47 %
Economy, finance and tax	587	3,34 %
Forestry, water, environment and urbanization	427	2,43 %
Property right	364	2,07 %
Human rights	331	1,88 %

Figure 3: Distribution of the Complaints as per Subjects in 2018



The percentage of the decisions in 2018 has been as follows:

Inadmissibility with a rate of **41,85%**

Referral with a rate of **30,90%**

Amicable Settlement with a rate of **12,30%**

Invalid Application with a rate of **1,20%**

Decision as to no ground exists for taking a decision with a rate of **2,78%**

Recommendation with a rate of **4,35%**

Refusal with a rate of **4,25%**

Partial Recommendation Partial Refusal with a rate of **1,73%**

Table 7: Percentage of the Types of Decision in 2018

Types of Decision	2018	%
Referral	4812	30,90 %
Inadmissibility	6517	41,85 %
Invalid Application	187	1,20 %
Merging	75	0,48 %
Separating	24	0,15 %
Amicable Settlement	1916	12,30 %
Decision as to no ground exists for taking a decision	433	2,78 %
Recommendation	677	4,35 %
Refusal	622	4,25 %
Partial Recommendation Partial Refusal	269	1,73 %
Total of Decisions	15.572	
Number of cases resolved by merging decision (+)	2118	
Merging Decision (-)	75	
Number of cases resolved	17.615	

The total of the cases processed in 2018 has been **21.647** including 17.585 cases received in 2018, and 4.062 cases transferred from 2017.

Table 8: Data on Cases of 2018

Number of cases transferred from 2017	Number of Cases Received in 2018	Total	Number of Cases Concluded in 2018	Number of Cases being processed
4.062	17.585	21.647	17.615	4.032

The majority of the complaints has been against the Local Governments with a rate of **10,53%** followed by the Ministry of National Education with a rate of **10,02%**.

Table 9: Distribution of the complaints as per Institutions (Top 5 Institutions)

Name of the Institution	2018	2018 %
Local Governments	1851	10,53%
Ministry of National Education	1762	10,02%
Universities and Faculties	1734	9,86%
Ministry of Family, Labor and Social Services	1369	7,79%
Ministry of Health	1239	7,05%

In 2018, the number of the cases resolved through “Amicable Settlement” has been 2,498.

Table 10: Distribution of the cases resolved through amicable settlement

Number of Cases resolved through amicable settlement	Through Amicable Settlement	Through Referral	TOTAL
	1.916	582	2.498
	77,72 %	22,28%	

In 2018, the number of the Recommendations has been 677 while the number of Partial Recommendation Partial Refusal has been 269.

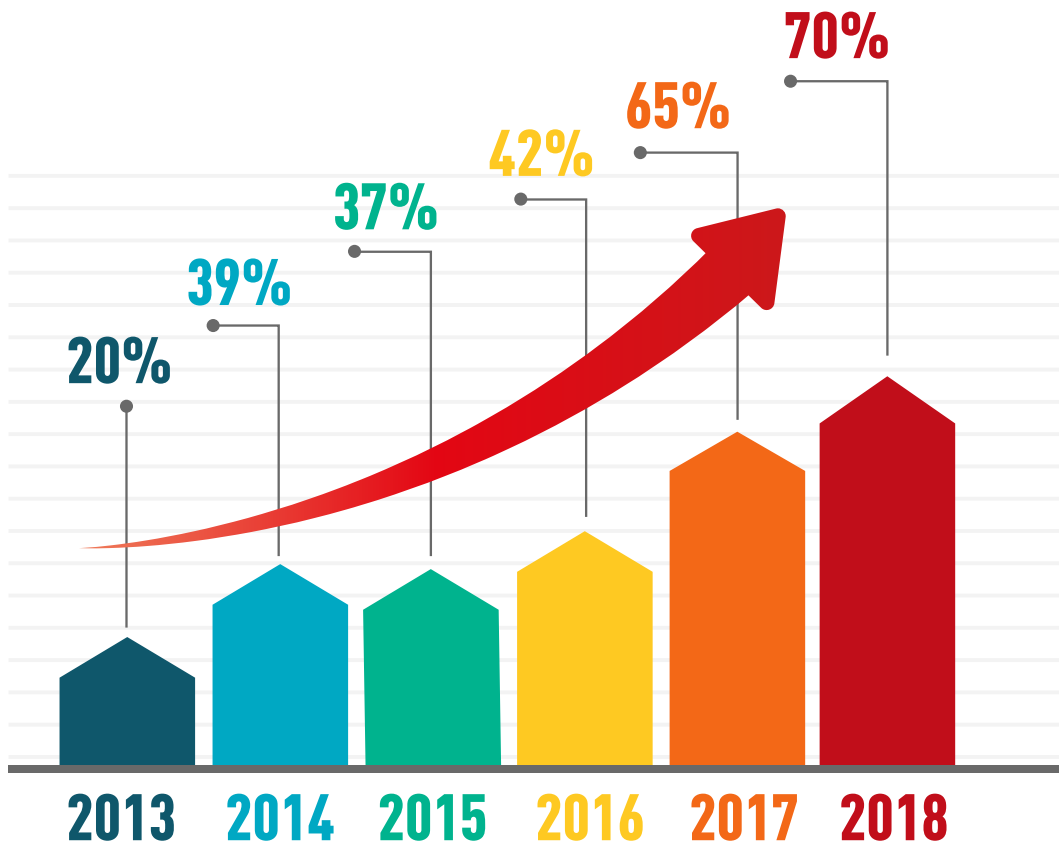
Table 11: Comparison of Recommendation and Partial Recommendation Partial Refusal in 2017-2018

Type of Decision	2017	2018	Change (%)
Recommendation	245	677	176,33%
Partial Recommendation Partial Refusal	177	269	51,98%

While the compliance rate of the Administrations with the decisions of the Ombudsman was around 20% in 2013, when the Ombudsman Institution was newly established, this rate has increased to 70% in 2018.

Table 12: Compliance rate of the Administrations with Recommendations as per years

Compliance rate %	2013	2014	2015	2016	2017	2018
	20	39	37	42	65	70

Figure 4: Compliance rate as per years

In addition to examining the complaints, the Ombudsman Institution of Turkey also responds to individuals' information requests. Through our Information Office, which works like a call center, information requests of **97.538** persons in total have been responded **as of the end of 2018**, which include;

- ◇ Totally 85.957 phone calls (31.366 outgoing calls, 54.591 incoming calls),
- ◇ 647 applications for information requests through e-mails,

- ◇ 244 applications filed within the framework of Law on Access to Information No. 4982,
- ◇ 6.690 face to face meetings with citizens who personally visited the Institution in Ankara and our office in Istanbul,
- ◇ Around 4.000 face to face meetings through Regional Meetings of the Ombudsman Institution with citizens, Provincial Working Visits, University Conferences and Meetings to Spread the Culture of Legal Remedy internationally.



HOW TO CONTACT THE OMBUDSMAN INSTITUTION

Address: Kavaklıdere Mahallesi
Zeytindalı Cad. No: 4
Çankaya/ANKARA-TURKEY

Phone: (312) 465 22 00

Fax: (312) 465 22 65

e-mail: iletisim@ombudsman.gov.tr

e-mail: turkey@ombudsman.gov.tr

www.ombudsman.gov.tr

   /TRombudsman