



**REPUBLIC OF MACEDONIA  
OMBUDSMAN**

# **ANNUAL REPORT**

## **ON THE LEVEL OF RESPECT, PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS**

# **2014**

**Skopje, March 2015**

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## Introduction

*Respect of freedoms and rights of citizens is an imperative for every society, such as their promotion and protection is for the Ombudsman. Therefore, society must enable preconditions for the establishment and functioning of a strong and independent mechanism for promotion and protection of the rights and freedoms of citizens. The existence of a national institution for the promotion and protection of human freedoms and rights, not only promotes, protects and detects vulnerabilities, but it also provides security to citizens. As a result, it is of great important for the state continually to enable smooth, legal and staff-related strengthening of this institution.*



*Namely, the Ombudsman by means of constant promotion of human rights and concern for the need to respect them, also aims to achieve their only task, to help all the citizens in the society, to be able to exercise their guaranteed rights at every level and without any obstacles. Their role is not only in resolving individual problems of citizens, but at the same time in the general monitoring of the overall state regarding human rights, as well as in raising the awareness of the administration on the need to respect human rights and the rule of law in general.*

*The Annual Report on the extent of securing respect, promotion and protection of human rights depicts the situation of human rights in the Republic of Macedonia. The report indicates the level of capacity the state has, to provide citizens all rights guaranteed by the Constitution and the laws, and the level of compliance with the recommendations of the institution Ombudsman. Simultaneously, the Annual Report is a reflection of how the administration functions, as well as of the implementation and respect of the laws. In addition, the Annual Report reflects the weaknesses in the system and suggests ways of elimination thereof.*

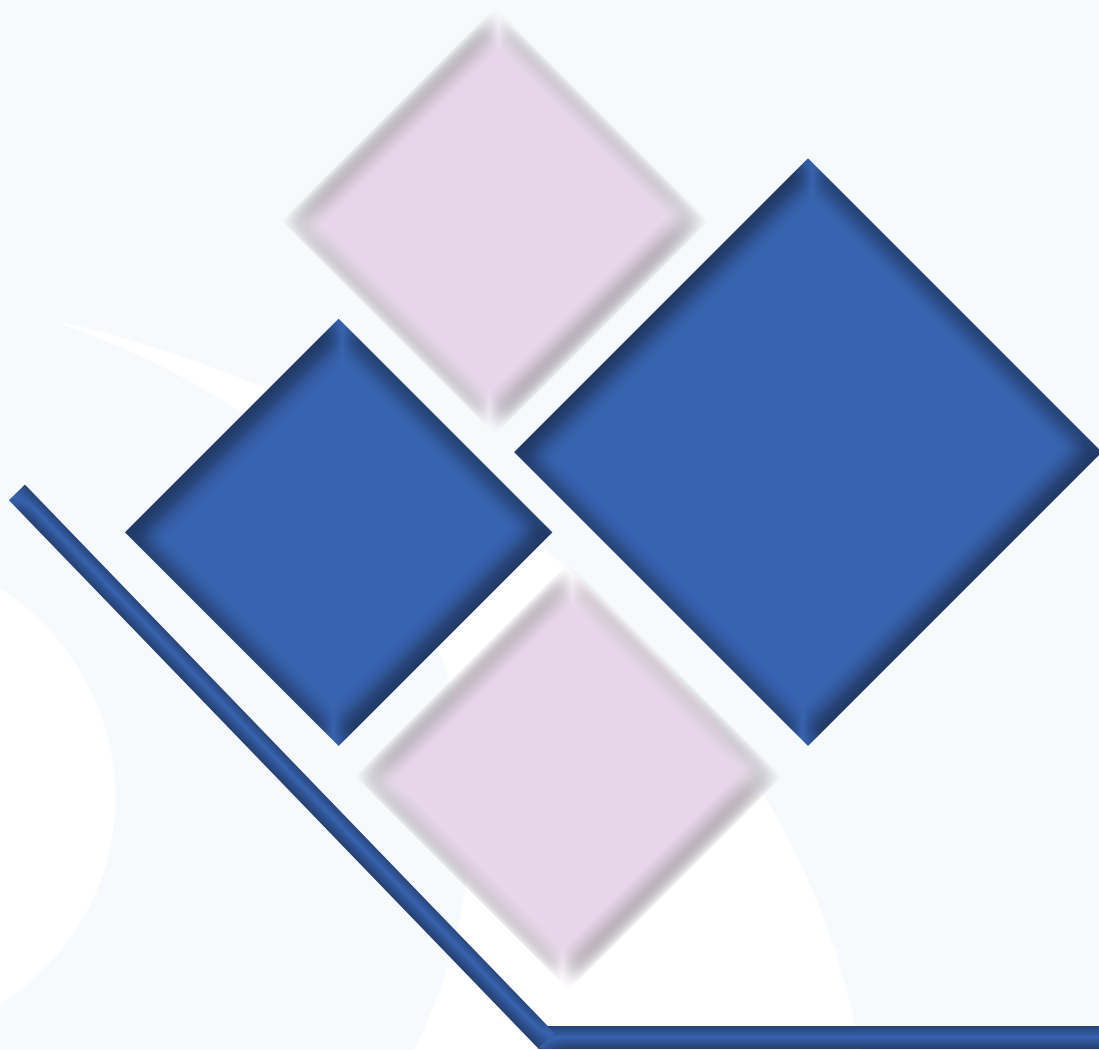
*When the Ombudsman continually makes recommendations for the improvement of certain conditions in the same areas, or establishes that there are still bodies that hinder their work, then it is a signal that we cannot talk about improving the promotion and protection of human rights in the country. This situation shows that the Assembly of the Republic of Macedonia, after reviewing the annual reports does not oblige the institutions to which the recommendations refer, to undertake actions and measures. Thus, on one hand, the institutions are missing a valuable opportunity to upgrade the system and improve the situation, and on the other, the Assembly fails to inspect the work of the state administration bodies.*

*The Ombudsman will continue to detect, investigate and follow everyday phenomena that threaten human rights. They must be accepted by the authorities and their recommendations consistently respected, since the growing respect for their individual and general recommendations ensures progress and contributes to raising the level of democracy in the society.*

**Ixhet Memeti**

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





**OMBUDSMAN - NATIONAL  
INSTITUTION FOR THE  
PROTECTION OF HUMAN RIGHTS**

Since 2011 the Ombudsman has had a B status of a National Human Rights Institution. In the evaluation by the International Coordinating Committee, it was estimated that the Ombudsman partially meets the Paris Principles. Paris Principles emphasize that national human rights institutions should be authorised to promote and protect human rights, based on the powers set out in a constitutional or legislative text, but also to actively participate in education on human rights and undertake actions to increase public awareness of the need to respect and implement the rights and freedoms of citizens.

The Ombudsman, in order to meet the recommendations of the International Coordinating Committee, and those of other international human rights bodies, undertook activities so as to meet the Paris Principles and to acquire an A status of a National Human Rights Institution. Currently the institution has a B status and in the evaluation the Accreditation Subcommittee established that the Ombudsman has a broad mandate to protect, however not to promote human rights. The Subcommittee on Accreditation also requested introduction of pluralistic approach in the selection of the managerial positions, as well as strengthening of the independence and public confidence in the institution.

In the reporting year, the Ombudsman participated in a working group within the Ministry of Justice, which was established for the preparation of the Draft Law Amending the Law on the Ombudsman. The need to fully meet the defined criteria was also indicated in the 2014 Progress Report for the Republic of Macedonia, and it was also given as a recommendation during the Universal Periodic Review of the United Nations for the Republic of Macedonia.

Although the Ombudsman actively participated in the working group for preparation of the Draft Law Amending the Law on the Ombudsman, all the suggestions and proposals provided by the Ombudsman were not accepted. The Draft legal text, which is currently in parliamentary procedure, does still not solve the issue of pluralism in the selection of managerial positions, although the Ombudsman pointed out and proposed that in the election of deputies various profiles of professionals, that is people engaged in social and humanistic sciences should be involved. The current proposal, which is in parliamentary procedure, limits the pluralistic approach and provides only a selection of deputies who are law graduates.

The implications of the Subcommittee on Accreditation are that the limitation of the diversity and pluralism of the composition of the governing body and staff of the national institution, such as the requirement for belonging to a particular profession, may limit the capacity of the national institutions to effectively fulfil all its mandated activities.

By the proposed legislative changes instead of the compulsory treatment based on the indications and recommendations given to the institutions in which freedom of movement is limited, a requirement is introduced that institutions where persons are deprived of their freedom should examine the indications and recommendations of the Ombudsman - National Preventive Mechanism and inform about possible measures of application. Furthermore, although the legal text regulates the issue of promotion, that is inclusion of promotion in the mandate of the Ombudsman, their constitutional jurisdiction is limited, that is, the proposed text does not include the Department for protection from discrimination and monitoring of the principle of adequate and equitable representation.

Hence, it may be concluded that the Ombudsman, as a National Human Rights Institution, was involved in the process of preparation of the legislative changes, but all the proposals, which are a necessary prerequisite for the fulfilment of the Paris Principles, were not accepted.



An abstract geometric design featuring four diamonds arranged in a cross-like pattern. The top and bottom diamonds are light purple, while the left and right diamonds are dark blue. A dark blue line starts from the bottom-left corner of the left diamond, extends diagonally down and to the right, and then continues horizontally to the right edge of the page.

# **EXTENT OF REALISATION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS BY AREAS**

## FROM THE OPERATION IN 2014



### **THE MINISTRY OF INTERIOR DOES NOT ACT UPON DECISIONS OF THE CONSTITUTIONAL COURT**

After the intervention of the Ombudsman the ban was cancelled and passports and identity cards were returned to the citizens, previously seized by the Ministry of Interior in accordance with a repealed provision of the Law on Travel Documents.

Namely, the Ministry of Interior, for a longer period of time did not respect the specific decision of the Constitutional Court, thus violating the constitutional and legal rights of the citizens concerned.

One of the general principles of law that the execution of final individual acts adopted on the basis of a law, regulation or other general act that was annulled by a decision of the Constitutional Court cannot be allowed, nor implemented, and if the enforcement had begun it should be stopped, in such cases is valid and is practically applied only declaratively.




### **PROPERTY IS INVIOLEABLE UNLESS THE CADASTRE AGENCY DECIDES OTHERWISE**

The Agency for Real Estate Cadastre in the procedures for establishing real estate cadastre on the entire territory of the Republic of Macedonia through the systematic registration of real estate rights or conversion of data from the land cadastre into the real estate cadastre, for unknown reasons deleted a number of citizens as owners in the cadastral records or changed the previous condition which was undisputed between the parties.

With this procedure, certain citizens have lost their right to their property and the plots of other citizens were extended or reduced, and there is also no overlapping of cadastral boundary lines-of-site with the plans of the cadastral parcels.

Although citizens are not culpable of these conditions and these administrative lapses, the cadastre has not undertaken actions ex officio to determine the accountability and to harmonise the actual state, not even after the intervention of the Ombudsman.

The position of the Agency, that the citizens themselves should pay the cost of re-registration in the land register, that is for errors caused by its unprofessional, inaccurate and poor quality work, is unacceptable.




### **REQUEST FOR INITIATING A PROCEDURE FOR DEFINING OF CRIMINAL LIABILITY AGAINST A PERSON EMPLOYED AT THE SECURITY DEPARTMENT OF AN EDUCATION AND CORRECTION FACILITY SUBMITTED**

The Ombudsman after receiving information of committed violence and sexual abuse against a protégé of the Education and Correction Facility Tetovo, located in Veles, by other protégés, instigated a proceeding on their own initiative and had a direct insight in the facility. After the measures conducted, they concluded that the case was only recorded in the book of daily events, but it was not reported to the authorities, nor measures for appropriate care and treatment of the child – victim of violence were undertaken.

Upon the request and indication of the Ombudsman, the Directorate for Execution of Sanctions performed a surveillance in the facility and, among other things, concluded that there was an attempt to conceal the deed by the officials, so that, as a result, the Director of the Education and Correction Facility Tetovo was requested to initiate a procedure for determination of disciplinary responsibility of the officials who had not undertaken any measures to protect the child in this case.

The Ombudsman submitted complete information about the case to the Basic Public Prosecutor's Office in Veles, with a request for initiating a procedure for determining the criminal responsibility of the officials, where after the Basic Public Prosecutor's Office filed an indictment proposal to the competent court against the Head of the Security Department for a criminal offense "negligent performance of duty".



### **EXECUTORS DO NOT COMPLY WITH THE PROVISIONS FOR EXEMPTIONS AND RESTRICTIONS IN DEBT COLLECTION**

The Ombudsman concluded that the executors do not respect the legal provisions which stipulate exemption from the execution of the funds realized through social assistance, legal support or temporary unemployment and limitations, and that the execution shall be carried out of up to 1/3 of the monthly income based on salary or pension of the debtor.

Namely, the executors issue orders blocking the accounts of debtors and take funds that are exempted under the Law on Execution. There is also evidence for cases when against the same debtor in roughly the same time period, several executors issued several orders for execution, by taking one third of the salary or pension, so that funds exceeding the legally prescribed maximum were seized from the debtors.

According to the evaluation of the Ombudsman, this situation is due to the fact that executors choose means of execution without performing a prior assessment of the status and financial situation of debtors, and the origin of funds transferred to their transaction accounts. The executors justify these actions with the explanation that they have no legal obligation and a possibility to check the origin of funds, nor a database to acquire an information whether another executor had initiated proceedings for execution against a debtor and whether on the basis of another order for execution, part of the pension or salary of the debtor has already been held.

The Ombudsman considers that for the purpose of avoiding such irregularities in the procedures of execution, urgent amendments to the legislation are required.



### **FREQUENT AMENDING OF LAWS CREATES LEGAL UNCERTAINTY**

The Ombudsman considers that there is a need for upgrading the legal system, but also expresses concern about the fact that certain laws only for a period of one year and without the necessary professional and public debate, have undergone numerous changes and there was frequent changing of laws that have not yet entered into force, that is, have not begun to apply. Certain laws were adopted in urgent proceedings and rapidly, which ultimately jeopardized their quality and applicability.

The new legislation provides establishment of new bodies, often radically changes the methods and procedures for filing claims and legal remedies, so that instead of creating preconditions for faster and more efficient manner of exercising the rights of citizens, complication in procedures and bureaucracy of the state administration bodies is achieved. Thereby, citizens experience a great difficulty to obtain information before which authority or institution they can achieve a certain legally guaranteed right. The legal system instead of being closer and more acceptable to the citizens, becomes more complex and less accessible.

The Ombudsman concluded that the frequent changes of laws that impose new rules and obligations for citizens and legal entities, create legal uncertainty not only among citizens but also among those who directly apply the laws.



### **MINISTRY OF INTERIOR RESTRICTS THE RIGHT TO FREEDOM OF MOVEMENT OUT OF THE REPUBLIC OF MACEDONIA TO ROMA AND ALBANIAN CITIZENS**

This year, as well, the trend of filing complaints of discrimination on ethnic grounds by representatives of the Roma and Albanian community, due to their prevention to cross the border, continued.

The Ombudsman demanded detailed information on each individual case from the Ministry of Interior, indicating the mandatory national and international standards for protection against discrimination.

The Ministry of Interior, in no case confirmed that there was unjustified returning of citizens, but has also not convinced the Ombudsman that acting in that manner it does not perform discrimination.

On the contrary, the Deputy Ombudsman faced the same problem in a business trip, when she was questioned about the reasons for travelling outside the Republic of Macedonia by the passport control at the Alexander the Great Airport in Skopje, which, however was not the case with her co-worker who was smoothly allowed to exit Republic of Macedonia.

This occurrence with the Deputy Ombudsman, does not only justify the position of the Ombudsman that the treatment of the Roma and Albanian community and limiting the right to free movement has elements of discrimination, but it also confirmed that the Ministry of Interior limits the freedom of movement of citizens, because they belong to the Roma and Albanian community, that is, it discriminates them.

Due to the increasing number of complaints in this respect, and in order to improve the situation and provide comprehensive legal procedure, the Ombudsman considers that it is necessary to upgrade the legal framework and provide greater legal security for citizen regarding their right to free movement by obtaining written decisions on unlawful border crossing, thus, submitting an information to the Minister for Interior and the Government of the Republic of Macedonia.



### **THE EXTERNAL EVALUATION AGAIN WITH MANY LAPSES, DISSATISFIED STUDENTS AND TEACHERS**

The Ombudsman acting on complaints from students and teachers on the implementation of the external evaluation, concluded that all preconditions have not been created for successful and effective implementation of this novelty, the questions that are the subject of evaluation are still not clear and concise, and are not fully protected from "breakthrough" and the institutions responsible for the implementation of the external evaluation are not completely trained and prepared.

Namely, the students reacted on the manner of evaluation of their responses and entering an unsatisfactory mark in a certificate, and the teachers reacted because they were fined due to major differences in student assessment.

The Ombudsman considers that, thus established and implemented, the external evaluation is to the detriment of students. At the same time, this form of assessment also denies the overall work and performance of the teacher during the year, the tools and methods of the continuous evaluation, the development of the learning and teaching process, and the system of the gained knowledge and skills of students, thereby infringing the freedom of creation, organization and realization of the educational process, and also breaking down the system of continuous assessment and evaluation.

The Ombudsman this year, as well, submitted an Information to the Minister for Education and Science and recommended undertaking of specific and appropriate measures for finding a suitable model and methods of external evaluation, which will not damage the right to education of children and will not degrade successes and contributions of teachers during the school year, that is, they will be motivated to achieve greater success and to improve the quality of education.



### **PS "GJORGJI SUGAREV" - BITOLA, PS "DOBRE JOVANOVSKI" - PRILEP, PS "AVRAM PISEVSKI" V. BARDOVCI - SKOPJE AND PS "GOCE DELCHEV" - SHTIP EXAMPLES OF SEGREGATED SCHOOLS**

Bearing in mind the best interest of the child and the right to unobstructed education under the Convention on the Rights of Children and the Law on Elementary Education along with the Law on Secondary Education, the Ombudsman in 2014 conducted an activity for the purpose of monitoring the enrolment of children in the first grade of primary education, to determine whether and to what extent the decision on regionalization in enrolment in primary schools in Macedonia was respected, as well as the composition of classes in schools, including children with different ethnic backgrounds. In addition, this activity was aimed at determining the situation in schools with mixed ethnic composition, whether in the creation of classes in each class students of different ethnic background were represented, or there were ethnically clean grades/ classes.

The research of the Ombudsman confirmed that the decision on regionalization in enrolment of first graders was not respected equally in all primary schools and there was a lack of greater efficiency by the competent authorities of the local self-government to prevent and overcome the segregation in schools within their territory.

Only because the parents refuse to enrol their children in schools where there is a higher number of children belonging to the Roma community, there is a state of segregation, as exemplified by the above schools that confirmed the facts stated above.

In secondary schools included by the research, establishment of purely ethnic classes was noted, due to the language of teaching.

### **WILL THE MANNER OF APPLICATION OF NEW MEANS OF PRESSURE GUARANTEE SAFETY TO THE HEALTH OF CITIZENS?**

The Draft amendments to the Law on Police in the segment of means of pressure envisages the introduction of the use of electric paralyzers and rubber bullets aimed at restoring public order and peace to a greater extent.

The introduction of new means of pressure in the legal framework, cause concern, since the proposed amendments do not define the manner in which they will be used, nor the need for health care of the persons on whom they will be applied. If this issue remains undefined in respect of the application itself, that is, determination of the procedure on the number, duration and intensity of the electric discharge that should be limited to a safe level, then in that case it can come to abuse of the means of pressure whereof the Committee for the Prevention of Torture at the Council of Europe also warns.

On the other hand, these new means of pressure can also be harmful to the health of persons or cause acute pain and therefore the standards require that this issue be settled solely and exclusively when there is a real and immediate threat to life or risk of occurrence of serious injuries. The use of such weapons only for observance of the order is considered unacceptable.

Additionally, if the Law does not provide medical help for the people against whom the means of pressure were used, and first aid training for the officials, the use of these means may be unsafe and may lead to serious damage to the health and life of the persons concerned.

### **THE ACCOMMODATION OF ILLEGAL MIGRANTS IN THE RECEPTION CENTRE FOR FOREIGNERS – BEYOND THE INTERNATIONAL AND DOMESTIC STANDARDS**

The Centre for Foreigners does not have suitable conditions for accommodation of illegal migrants particularly of the vulnerable groups of illegal migrants - women and children. This centre faces overcrowding, long settlement and restriction of the rights of illegal migrants, but of particular concern is the retention of women and children in conditions that are below minimum international standards.

The centre lacks constant medical care, it does not provide beds for all the residents, so that some of them sleep on the ground, people do not obtain clothes and shoes according to the weather conditions, although they stay in the centre for a longer period of time. In addition, they cannot go for a walk outdoors twice a day for an hour, because the facility is not securely fenced and there is insufficient space for the exercise of this right for all residents at the Centre.

The complaints from the residents at the Centre mainly relate to the long stay at the Centre, the limited communication with their families, or the inability to receive visits from family members, as well as by the defenders of the people housed at the Centre. It is of particular concern that some of the residents cannot apply for asylum until the proceedings undertaken before the investigation and judicial authorities have been completed.





### **PENITENTIARY - CORRECTIONAL INSTITUTION STILL VIOLATE THE RIGHTS OF PERSONS DEPRIVED OF FREEDOM**

The situation in the penitentiary - correctional institutions remains dissatisfactory. Although certain investment activities and other reforms are being announced, it is undeniable that there is still a problem with overcrowding, especially in PCI Idrizovo, inadequate health care, poor quality food for inmates and detainees and other shortcomings, which leads to a conclusion that the penitentiary system in the Republic of Macedonia does not function in accordance with the Law on Execution of Sanctions and the international standards.

The admission departments in penitentiary-correctional institutions do not function and different groups of inmates are accommodated in them, which affects the spread of criminal infection. In the admission department of PCI Idrizovo the inmates do not have beds, and in most rooms more than 40 people are accommodated. Accommodation in inadequate conditions, without providing beds and over the allowed number of places in a room is inhumane and degrading treatment determined by the practice of the European Court of Human Rights. People are housed in admission departments for more than 3 months, with a proper classification, which is also contrary to the Law on Execution of Sanctions. Furthermore, the international standards for accommodation are also not met in other departments in the penitentiary-correctional institutions and educational-correctional facilities.

Healthcare is not fully undertaken by the Ministry of Health, so that in some prisons there is no competent doctor who will conduct healthcare for the convicts and detainees, that is, public healthcare institutions have not prepared amendments to the acts on internal organization and systematization of job positions.

The system of socialization does not function and in most of the institutions there are no equipped workshops that could actively engage the detained and convicted persons. The educational process is not conducted in these institutions, resulting in the appearance of reverting or recidivism.

The treatment of vulnerable groups is inadequate and most often they are discriminated and without the necessary assistance by the institutions where persons are deprived of freedom.



### **CITIZENS' RIGHT TO VOTE VIOLATED DUE TO FLAWS AND IRREGULARITIES IN THE PERFORMANCE OF THE STATE ELECTION COMMISSION**

As a result of an indisputable flaw of the State Election Commission (SEC), especially considering its legal obligation to promptly and fully inform citizens on the manner of voting and to undertake continuous actions to register, add and delete data in the voters list, even by direct checks certain individuals were unable to fully exercise their right to vote.

In fact, many citizens faced the problem to be included in the voters list but not in its transcript at the polling places, or to be included only in one of the lists, the one for the presidential elections, and not for the parliamentary elections, that is for the presidential elections they were registered at one polling place, and for the parliamentary elections, at a completely different polling place.



### **BAD COMMUNICATION OBSTACLE TO THE EFFECTIVE EXERCISE OF RIGHTS OF THE PARTIES IN THE ADMINISTRATIVE PROCEDURE**

For many cases the procedure on the appeal is delayed, the legally defined deadlines for adoption of decisions are not respected and the rights of the parties in the procedure are violated, due to lack of coordination of the authorities and absence of timely undertaking of official actions.

A particular problem is the poor communication between the State Commission and the Administrative Court, especially in determining the fact of whether a verdict of this Court is final or not.

This process takes a long time, and the State Commission does not decide even if the party or the Ombudsman submit copies of the respective decisions of the Administrative Court, naturally, with confirmation of their validity.

Namely, in such cases, as well, the State Commission responds that there is still no official response from the Administrative Court, which on the contrary is a violation of the rights of the parties in the administrative procedure.



### **WARNINGS AND FORCED COLLECTION OF BROADCASTING FEE EVEN FOR REGULAR PAYERS**

The irresponsible and unconscientious operation of the Public Revenue Office and the PE Macedonian Radio Television (MRT) was a reason for a lot of citizens to unnecessarily prove that they had already paid the broadcasting fee.

Namely, the fees paid by the citizens were not posted and recorded for a longer period of time, since the old internal codes were not associated with the new ones, an obligation that PRO and MRT transfer to one another.

The citizens, although suffering unfounded damage, do not receive the forcibly collected money by PRO until, according to their cooperation agreement, MRT decides on write-off and notifies it thereof. The absurd being even greater, a decision with such content was not adopted by MRT in 2014.



### **THE CONSTITUTIONAL COURT "FORGETS THEIR OWN POSITIONS"**

The Ombudsman, considering that in the practice there is no implementation of the previously cancelled provision of the Law on Contributions for Mandatory Social Insurance and citizens were once again requested to submit statements of realized income, submitted a proposal to the Constitutional Court to initiate proceedings for assessing the constitutionality and legality of the once abolished Article of the Law.

The Constitutional Court had earlier abolished this obligation imposed on the citizens and determined that it was unconstitutional, but this time it did not initiate proceedings upon the proposal. On the other hand, following the suggestions of the Ombudsman, the Ministry of Finance, as a party proposing the Law, amended the above-stated Article and citizens are no longer obliged to submit statements of income for the previous year to the Health Fund, but these data shall be submitted by the Public Revenue Office.



### **NON-COMPLIANCE WITH THE PRINCIPLE OF A TRIAL WITHIN REASONABLE TIMEFRAME STILL A CONSIDERABLE PROBLEM FOR THE CITIZENS OF REPUBLIC OF MACEDONIA**

Despite the numerous normative solutions in the legal system, the judiciary in the Republic of Macedonia still has a succession of weaknesses, whereby citizens continue to face unjustified delay of court proceedings.

Particularly evident is the problem of long duration of civil proceedings, in which the clients seek realization and protection of certain property rights, that is, status rights and interests and the proceedings before the Administrative Court of the Republic of Macedonia, since it acts on complaints initiating administrative disputes with substantial delay.

This situation contributes to the fact that citizens have difficulties in exercising their right to a fair trial and trial within a reasonable time.



### **INSTITUTIONS MAY OBLIGE CITIZENS TO PAY FEES AND TAXES, BUT ONLY IN LEGALLY DEFINED PROCEDURES**

The emergence of blocking bank accounts of citizens and collection of taxes, fees and other similar obligations, for which there were no decisions and warnings for their payment for years, was disturbing, since these administrative lapses cannot be justified by anything.

The Public Revenue Office, the City of Skopje and the municipalities, almost always choose the collection from a bank account as a method of execution, which in turn, withdraws all monetary funds of the citizen, not taking account that the only income on the bank account of the citizens is based on salary, pension, social assistance, child support, scholarships and so on.

These actions violate the rights of the citizens and do not respect the legal provisions relating to the limitation and exemption from execution, whereby no account is taken on the dignity of the debtors and their families, as well as that the execution should be more favourable for the debtor.

The interventions of the Ombudsman are not respected.

### **THE MAYOR OF THE MUNICIPALITY OF PETROVEC EXEMPTS FROM PAYMENT OF A PUBLIC LIGHTING FEE AT HIS DISCRETION**

The Mayor of the Municipality of Petrovec, at his discretion, by an irresponsible pursuit of his mandate and unequal treatment in the procedures, issues certificates of exemption from payment of a compensation for public lighting only to some citizens, which they then submit to EVN Macedonia.

However, for all cases in which citizens seek exemption from the communal fee for public lighting, where it does not exist, the Mayor of Petrovec, citing provisions of the Law on Communal Fees informs the Ombudsman that the system of street lighting exists within the territory of the municipality in all inhabited areas and that there is no basis to suggest to the Council to adopt a decision to release some citizens of the payment thereof.

### **SELECTIVE AND UNEQUAL PRACTICE OF EVN MACEDONIA**

EVN Macedonia does not accept the Ombudsman's requests to allow some consumers payment of arrears in instalments with an explanation that it does not currently organize campaigns through which the citizens are being offered more favourable conditions for the payment of debts for consumed electricity, and when such a decision would be adopted, the public would be timely informed.

However, governed by subjective criteria, since there is no internal act which would determine the rules and criteria as to which persons may be allowed that right, what the number of individual payments would be and if they would be determined by the total overdue debt or the financial state of the debtor, some consumers are still granted such a right, which confirms the unequal and selective manner of operation of EVN Macedonia.



### **EVEN AFTER FOUR YEARS THE HOUSING PROBLEMS OF THE FAMILIES OF THE DECEASED PEACEKEEPERS IS STILL NOT SOLVED**

In accordance with the Law on special rights of participants in peacekeeping operations and collective defence operations outside of RM, the families of the deceased members of the security forces in the helicopter crash of 2008, submitted requests for obtaining a flat for rent, to the Commission for Housing Affairs within the Government of the Republic of Macedonia as early as in 2010.

Although it is undisputed that the specific requirements are legally established and that the members of their families are entitled to this right, the numerous interventions of the Ombudsman did not have a positive outcome, since except for the Government's decision to that effect, even after the expiration of four years, a decision has not been adopted.

The reason being that the procedure for verifying the property status of the applicants is underway.



### **FOLLOWING THE INTERVENTION BY THE OMBUDSMAN CLEARED ROADS, PAVEMENTS AND GREEN AREAS IN A PART OF THE MUNICIPALITY OF CAIR**

Acting on a case on their own initiative based on acquired knowledge and obtained photographs by the media on the pollution of the environment in the Municipality of Cair, the Ombudsman initiated a procedure and asked the Communal Inspection to conduct an inspection supervision over the afore-stated location. The Ombudsman also demanded establishing of the actual state and based thereon undertaking of appropriate actions and measures to overcome the pollution problem.

After the intervention of the Ombudsman, only within 2-3 days, by engaging a large number of seasonal workers and stationing of 200 plastic containers, the situation with clearing of the streets, sidewalks and green areas on the part of the municipality territory was completely restored.




### **EVICTON STOPPED UPON OMBUDSMAN'S REQUEST**

A complainant asked the Ombudsman to intervene for temporary halt of a procedure of forced execution, whereby they were ordered to move, that is to give their creditors possession of a part of an immovable property.


The Ombudsman conducted a procedure in which they established that in the meantime the complainant started several procedures disputing the execution, inter alia, filed a lawsuit to establish the right of ownership with a proposal of issuing an interim measure, and the State Ombudsman submitted a request to the executor for the execution procedure to be stopped, since the part of the building that is subject of execution lies on land owned by the Republic of Macedonia.

The Ombudsman asked the executor for a temporary postponement of the forced eviction, since they judged that the debtor would suffer uncompensable damage, if the execution were implemented without resolving the previous disputes. The executor informed the Ombudsman that the procedure of eviction was temporarily stopped.



### **THE MUNICIPALITY OF SUTO ORIZARI WITHOUT PERSONAL GYNECOLOGIST, GIRLS AND WOMEN MANAGE AS THEY CAN!**


In the Municipality of Shuto Orizari there is still no gynaecologist who could provide gynaecological and childbirth services for women and girls in the municipality. Although the programme of the Ministry of Health provided for opening of gynaecological practice, it was still not implemented and women and girls of this municipality chose personal gynaecologists from other municipalities with whom they are not satisfied and also complain about the illegal charges and poor quality of the healthcare services. Since July 2014, the Ministry provided a gynaecological office that delivers healthcare services, by one gynaecologist once a week, but did not offer a personal gynaecologist, so that women and girls could realize their rights regarding their reproductive health smoothly and with high quality.



### **PATIENTS WITH "GAUCHER" AND "PRADER WILLI SYNDROME (PWS) - SLEEP APNEA" WITHOUT CONDITIONS FOR TREATMENT IN HEALTH INSTITUTIONS IN MACEDONIA**

Patients with "Gaucher disease" and with the diagnosis Prader Willi syndrome (PWS) - Sleep Apnoea do still not receive adequate medical treatment and facilitation of the supply of the necessary therapy that is fairly expensive and is not covered by the Health Insurance Fund. Clinics do not provide conditions to treat these patients, and the Fund does not always accept to send them abroad for treatment.

The Ombudsman considers that conditions for adequate healthcare for these people should be created and as a result demanded from the Commission for Rare Diseases at the Ministry of Health to include them in the Programme for Rare Disease or to ensure that their treatment is supported by the Health Insurance Fund.



### **THE RESEARCH OF THE OMBUDSMAN SHOWED THAT MOST CITIZENS SUBMITTED APPLICATIONS FOR ORTHOPEDIC DEVICES, AND LEAST FOR TREATMENT ABROAD**


The Ombudsman conducted a research in order to obtain information on the course of proceedings on requests and complaints of citizens before the regional offices of the Fund and the Ministry of Health, for the period January-June 2014. The research covered the 30 regional offices of the Fund and the Ministry of Health, and the analysis of the responses showed that citizens submitted 35,115 requests for the right to healthcare and insurance, for 29, 906 of which it was decided by an appropriate legal act of the first degree or second degree authority in charge. Of the total number of requests, 15, 288 were filed for orthopaedic devices, and only 88 requests for medical treatment abroad. Most complaints to the Ministry of Health were submitted for reimbursement of funds for medical services. In addition, the research found that the co-operation between the regional offices of the Fund and the Ministry of Health is at a low level, and keeping in mind however that exercising of citizen's right is concerned, it is to their detriment and contributes to the delay of the proceedings. The Ministry of Health in most cases does not decide within the legally prescribed deadline, and the deadline for acting on requests is also not always respected by the regional offices of the Health Insurance Fund.



### **CHILDREN DRUG ADDICTS ARE NOT FULLY PROTECTED**

An increasing number of children are drug users, and there is also lowering of the age limit of children. The youngest user of narcotics in the Republic of Macedonia is a three year old child who inhales glue and an eight year old who injected drugs. This was stated at the round table held in the organization of the Ombudsman and the Association HOPS- Options for Healthy Life on the subject "Treatment and Care of Children Who Use Drugs."

According to the Ombudsman, the current situation of children who use drugs alerts that undertaking of urgent and prompt measures for protection and treatment of children is required, creation of an appropriate Protocol that would regulate the medical treatment and a Programme for psychosocial support of the children and their families. Only through inter-sectoral action, that is, implementation of continuous measures of prevention, education at all levels of schooling about the harmful effects of drug abuse, and strengthening of the family as the basic community, as well as increasing of the capacity of the bodies that supervise the family, may lead to improvement of the situation of this phenomenon among children.



### **PUBLIC INSTITUTIONS FOR ACCOMMODATION OF CHILDREN WITH BEHAVIORAL PROBLEMS DO NOT PROVIDE THE DESIRED RESULT**

The actions on the cases of the Ombudsman result in the conclusion that children who because of behavioural problems are addressed to the PI "25 May" and PI "Ranka Milanovic" are more on the run than under treatment and proper care in these facilities. Just as an example, two minors that by a decision of the competent centre were housed at the PI "25 May" spent only 36 days in the institution from a total of 781 days. Both the Public Institution and the Municipal Centre are aware of the problem, but nothing was undertaken for better functioning of the institutions, in order to increase the effect of this form of child care that does not give the expected results.




### **SOCIAL WORK CENTRES FAIL TO FULLY IMPLEMENT THEIR OWN DECISIONS**

Because of conflicting relations and hostility between parents who are divorced/separated, children are hurt by restricting their right to see the parent they do not live with. The competent social work centres most often indicate to the parents that they have an obligation to respect the decision for meetings or refer parents to treatment in counselling, but do not always manage to protect the child and their right to establish contact with both parents on equal basis, that is, to maintain uninterrupted personal relations and contacts with the parent they do not live with.



### **UNTIMELY PAYMENT OF MONETARY BENEFITS FOR SOCIAL PROTECTION JEOPARDIZES THE EXISTENCE OF THE BENEFICIARIES**

The Ombudsman established late and untimely payment of the monetary benefits for social protection, one-off monetary assistance, permanent financial assistance, assistance and care by another person, parental allowance for third child, conditional monetary compensation and subsidies for electricity. The Municipal centres for social work transfer the responsibility to the Ministry of Labour and Social Policy, and the Ministry has not undertaken any significant measures for a regular and continuous payment, especially for funds that have to be paid retroactively to the beneficiaries of social protection.



### **THE PROCEEDINGS BEFORE THE STATE COMMISSION FOR DECIDING IN ADMINISTRATIVE PROCEDURE AND PROCEDURE OF EMPLOYMENT IN THE SECOND DEGREE FOR CASES IN THE PENSION AREA ARE VERY LENGTHY**

Instead of deciding within the statutory period of two months, the State Commission for deciding in administrative procedure and procedure of employment in the second degree decides after at least six months on the appeals of citizens.

The Ombudsman estimated the legally impermissible long duration of the proceedings before the State Commission as a violation of citizens' rights and, in order to locate the real problem and its overcoming, submitted a Questionnaire to the competent authority, so as to conduct research that would give an answer to the problem. However, the State Commission despite the given long-term deadline for response and filling the Questionnaire, as well as an intervention submitted by the Ombudsman, has not submitted a completed questionnaire yet, except for a brief notification with a reference that the answer will be found in the annual report of the Commission.



### **VIOLATED RIGHTS FROM EMPLOYMENT OF A GROUP OF FORMER EMPLOYEES AT THE CUSTOMS AUTHORITY**

The Customs Authority even after the expiration of four years still does not act on the second instance decision on modification and cancellation of the decisions on termination of the employment of four former employees and requires a court order for their return to work.

The Ombudsman found violation of the rights of these persons, the registration of whom, after the expiry of the notice period, specified in the decisions on termination of the labour relation, was immediately cancelled and the second degree commission annulled or modified the decisions, that provided a basis for cancelling the registration with a delay. The employees cannot submit a court decision to return to work, because there is no legal termination of the labour relation. The Ombudsman asked and pointed out that the Customs Authority should act on the second degree decisions, but it still refuses to act thereon.



### **FIXED PART OF THE THERMAL ENERGY FEE STILL PAID BY DISCONNECTED CONSUMERS OF A SPECIFIC LINE**

The citizens disconnected from heating rightfully react to the obligation to pay compensation for engaged power (fixed part) from the compensation for thermal energy. This payment obligation is imposed on residents of specific entrances that are charged such a fee, although they are technically disconnected from the system and thermal energy consumption of a particular line is not registered on the common measuring device.

According to the Ombudsman, the obligation for payment of a fixed part fee even in conditions when there is no registered consumption of thermal energy for a separate line on the measuring device is a violation of the rights of citizens as consumers. As a result, the Ombudsman submitted to the Energy Regulatory Commission as early as in 2013 an initiative to amend the rules for the supply of thermal energy, but the Commission considered that there was no need to amend the rules for the supply of thermal energy.



## PROTECTION OF HUMAN RIGHTS BY AREAS

### SOCIAL SECURITY AND PROTECTION

Acting upon complaints of citizens for exercising their rights to social security and protection, the Ombudsman stated that the social situation of citizens in 2014 was not significantly improved, which is confirmed by the growing number of complaints submitted to the Ombudsman for protection of social protection rights.

The majority of complaints in the area of social protection were filed due to undue delay of first instance procedures for exercising the rights.

Namely, from the content of complaints from citizens, the Ombudsman concluded that there was irregular, that is, delayed payment of compensations on the basis of social welfare, parental allowance for third child, contingent compensation, permanent financial assistance, assistance and care of another person, as well as for mobility and deafness. The inter-municipal centres for deciding upon citizens' requests regarding this issue do not accept their responsibility, stating that they adopted decisions on a specific right to social protection and that the payment of funds is the responsibility of the Ministry of Labour and Social Policy. The Ombudsman for the purpose of overcoming this situation and continuous and regular payment of funds to the citizens on the basis of this recognized right, in addition to the individual interventions to the Centres for Social Work, also submitted an information to the Minister for Labour and Social Policy with a proposal for measures to be undertaken. Thereby, the Ombudsman emphasized that the regular and timely payment of these compensations enables the exercising of the constitutional guarantee of social security and social justice, solidarity, humanism and reintegration of citizens.

In this reporting period, there were complaints about the delay of the first instance procedure and lack of provision of adequate professional assistance to citizens by the officials. The citizens showed particular dissatisfaction with the operation of the Centres for Social Work in Kisela Voda, Karposh and Cair. The Ombudsman, despite the written interventions to the heads of the Centres for Social Work, also requested from the Director of the PI Municipal Centre for Social Work of the City of Skopje to undertake measures, for improvement of the attitude towards citizens, beneficiaries of social protection and timely adoption of decisions on their requests by adopting an appropriate legal act, as well as sanctioning of the misconduct by officials.

In this context, with a view to improving the cooperation, several centres were visited, whereby the Ombudsman made recommendations about the improvement of their work, that is, more efficient, accountable and legitimate actions on the requests of citizens. After that, improvement in the cooperation by the aforementioned centres in their relations with the citizens beneficiaries of social protection was noticed, and in several cases by managing officials the behaviour of employees was sanctioned, that is disciplinary measures were imposed.

Acting on complaints in this area, in several cases, the Ombudsman found that citizens' social rights are abolished due to unreported changes in the financial condition of the family, where-

by decisions obliging citizens to return the previously received funds were adopted. Bearing in mind the fact that the beneficiaries not only lose their only source of funds for their existence, but they also become indebted to return the funds, although they are not financially capable, the Ombudsman pointed to the principle of service orientation and assistance to ignorant citizens, that is, to the need for them to be informed about the obligations arising from certain rules.

Namely, the Ombudsman, in spite of considering the legal provisions under which citizens are obliged to report all changes in their financial and family situation, still indicated that caution should be taken to achieve the country's care for social protection of citizens in accordance with the principle of social justice. To that end, the Ombudsman in cooperation with non-governmental organizations and several local self-governments in Skopje, organized one-day meeting with citizens informing them on their rights and duties, but also advised them for the purpose of smooth realization of their rights in the social area.

The Ombudsman in the reporting period followed the situation of persons accommodated in the shelter Chichino Selo and intervened before the competent authorities with a request for undertaking measures to improve the conditions and status of these persons. Unfortunately, despite the measures undertaken by the PI Inter-municipal Centre for Social Work of the City of Skopje and the Ministry of Labour and Social Policy, these people are still not satisfied with the living conditions in the reception centre and the inadequate care of the authorities.

With regard to persons who are not able to independently perform their basic life needs, this year, as well, the Ombudsman established delay of procedures for exercising the right to blindness and mobility aid or permanent financial assistance, especially due to untimely check-ups by the competent Medical Commissions and failure to submit the views and findings on the health situation of the applicant to the competent authority.

Some of the complaints were related to failure to act upon the verdicts of the Administrative Court annulling the decisions of the Ministry of Labour and Social Policy. In almost all cases, the Ombudsman concluded that the verdicts had been appealed by the Ministry to the Supreme Administrative Court, and as a result of the lengthy procedures, citizens in many cases are still waiting for resolution of the case. In the meantime, the citizens have been impeded by the Centres to submit a new request for the exercise of a certain right with an explanation that there is an on-going court procedure. In such cases, the Ombudsman intervened in terms of creating new procedures for the exercise of rights to social protection, that is, accepting the requests of citizens and deciding thereon, which was mostly accepted by the centres for social work.

## CONCLUSIONS

Social protection of citizens is realised with difficulties, and due to the late payment of monetary benefits citizens face difficulties in everyday existence.

The efficiency and the attitude of the Centres for Social Work has not improved, which by untimely acting upon citizens' requests prevents them from realizing their rights.

## RECOMMENDATIONS

Measures to be undertaken for timely and continuous monthly payment of monetary benefits based on social protection, also considering the real needs of the affected families which have no income.

Improving the operation of the competent Centres for Social Work, and their attitude towards citizens, for the purpose of timely treatment of their requests for social protection.

## PENSION AND DISABILITY INSURANCE

Pension and disability insurance rights, as personal property and inalienable rights, guaranteed by the Constitution of the Republic of Macedonia and closely regulated by the Law on Pension and Disability Insurance, are basic rights and their smooth exercise is essential for the citizens of the Republic of Macedonia.

The Ombudsman of the Republic of Macedonia under their capacity has the ability to act and intervene in the event that these civil rights are violated by state institutions. The practice shows that the most common need for intervention by the Ombudsman in the exercise of the rights to pension and disability insurance is due to untimely and inefficient actions of authorities in administrative proceedings initiated by citizens.

In the reporting period most frequent were the complaints for exercising the right to disability pension. Citizens most often complained about the subjectivity in the decision-making of the competent commissions responsible for evaluating the working capacity. Despite the fact that the Department for Assessment of Working Capacity within the Pension and Disability Insurance Fund, as a body responsible for the realization of the right to a disability pension, is significantly more efficient and quicker in making decisions with respect to the past years, citizens still express dissatisfaction regarding the content of the adopted acts and use their right to an appeal before the a second degree authority, which, on the other hand, might delay the proceedings. The Ombudsman intervened before the Fund in respect of the actual determination of the facts and determining objective findings, so that the citizens with lost working ability could realize the right to disability pension. In this reporting period, as well, there were complaints from citizens regarding the legal obligations for control check-ups after the realized right to disability pension. However, given the fact that legally prescribed conditions are concerned, there is no possibility of intervention by the Ombudsman in that respect. In cases where legal requirements were met, citizens realized their right to a disability pension.

As for the complaints about a delay of the procedure due to transferring the case for inspection and processing in the Ministry of Interior for suspicion that a criminal offense in counterfeiting was committed and there is questionable documentation, in the exercise of the rights to disability pension, in 2014 the number was significantly reduced compared to previous years. The Ombudsman intervened before the competent ministry, where after the body undertook an action.

Worthy of note is the number of complaints before the Ombudsman for violation of legal deadlines for exercising the rights to pension and disability insurance. Although the number of these complaints has decreased compared to the previous year, the problem still remains current. Namely, the delay of the proceedings before the bodies occurs at the second degree authority. According to the Ombudsman, the State Commission for deciding in second degree in administrative procedure and employment procedure, during this reporting year, did not act in accordance with the legally prescribed deadlines in none of the cases. The suggestions and interventions of the Ombudsman before the second degree authority, aimed at speeding up procedures and efficiency in decision making, have not yet received a response.

The Ombudsman assessed the legally impermissible long duration of proceedings before the competent authorities in the exercise of the rights to pension and disability insurance as a violation of citizens' rights, and as a result, on numerous occasions, in writing and through direct visits undertook interventions. For the purpose of locating the real problem and its overcoming, the Ombudsman submitted a questionnaire to the State Commission for deciding in administrative procedure and employment procedure in the second degree, in order to conduct research that would give an answer to the problem in question. Although a longer period of time was given for a response and filling the questionnaire, as an intervention was submitted by the Ombudsman, the competent state commission has not yet submitted a completed questionnaire, except for a brief notification with a reference that we could find the response in the annual report of the Commission.



The complaints relating to the exercise of the rights to age pension follow in number in the reporting period within the protection of the rights to pension and disability insurance, and mostly relate to inability to exercise the right to age pension, due to lack of proper documentation required for recording the years of service, or because of unfulfilled legal requirements for exercising the right to age pension. Some of the complaints referred to the dissatisfaction with the calculated amount of the pension base, and the delayed actions of the authorized bodies. However, the number of complaints regarding the untimely actions of the bodies was significantly reduced compared to previous reporting years. In this context, there were numerous complaints due to not entered or wrongly entered data in the main records, untimely paid contributions, untimely submission of data to the Pension and Disability Insurance Fund of the Republic of Macedonia by employers.

Regarding the problem with the collection of contributions, the Ombudsman indicated to the Fund to pursue legal actions for collection of contributions to ensure realization of the rights of the insured persons, where after the Fund acted thereon.

In 2014 the number of complaints from citizens concerning the years of service significantly increased. The most common problem is that the years of service were not recorded in the main records of the Fund despite the paid contributions on the basis of a court decision, since the employer did not pay the interest for late payment of the contributions. In such cases, the intervention of the Ombudsman was aimed at registration of the paid contributions, regardless of the interest, to avoid restricting the rights of the insured persons who without their own fault are placed in an unfavourable position. Regarding this issue, the Fund often further fails to act upon the suggestions of the Ombudsman, and as a result, the rights of the citizens remain unfulfilled.

The number of complaints relating to the exercise of the right to family pension this year is significantly lower compared to the previous year. Taking into account the legislative changes in this area, according to which the age limits for exercising this right were shifted, the Ombudsman had no grounds for action, and as for the cases where legal requirements were met, they intervened to the competent authority, where after the citizens exercised their right to family pension.

This year, as well, citizens encountered difficulties in exercising the right to pension based on international and bilateral agreements, although their number was greatly reduced, especially during realization of the proportional part of a pension or retirement with years of service spent in the former republics of SFR Yugoslavia. The Ombudsman intervened by establishing direct contact with the officials at the foreign competent bodies, and urged the Fund to continuously contact with them in order to overcome the problems and speed up the procedures. These interventions resulted in the realization of citizens' rights.

Some citizens complained about violation of rights related to pension as a subject to execution. In these cases the Ombudsman indicated to the competent authority about the withholding of the legally permitted amount, which must not exceed one third of the amount of the pension, and in all cases it was acted on the indication. Acting on complaints regarding the retention of part of the pension due to unsubstantiated paid pension, for which warnings prior to initiation of lawsuits were issued or court decisions were already adopted, the Ombudsman in most cases stated that the Fund was acting according to the law and retained up to one third of the amount of the pension.

During this reporting period there were few complaints whereon the Ombudsman acted, referring to unfulfilled rights to monetary compensation for physical injury, accommodation in pensioners home for rent, part-time work, minimum pension, rights to unpaid severance by an employer and the like.

In the course of this reporting year, as well, the Ombudsman dedicated due attention to citizens, specifying the precise legal provisions and clarifying the legal procedures, in order to make them familiar with the current regulations, to acquaint them with their constitutional and legal rights, in the area of pension and disability insurance, as well as all, in the other areas governed by the positive law of the Republic of Macedonia.

In this regard, despite the legal advice to citizens at the Ombudsman's premises during 2014, they also visited the homes for the elderly in Skopje, Kumanovo, Prilep and Bitola, and

held direct meetings and had conversations with citizens belonging to vulnerable and marginalized groups in several municipalities in Skopje and in cities throughout the Republic of Macedonia.

## CONCLUSIONS

The slow and difficult realization of rights to pension and disability insurance continues, especially because of the unjustified long duration of the proceedings on appeal before the State Commission for deciding in administrative procedure and employment procedure in the second degree.

The operation of the Pension and Disability Insurance Fund of the Republic of Macedonia and its regional offices as first-instance authorities in dealing with citizens' requests improved.

The citizens, especially those from the vulnerable and marginalized groups, are insufficiently familiar with the ways and mechanisms for exercising the rights to pension and disability insurance.

## RECOMMENDATIONS

Speeding up procedures on the requests of citizens, particularly speeding up the proceedings in appeals, so that citizens would be able to exercise their right faster and more effectively.

Continuation of the timely and essential treatment of bodies upon the interventions of the Ombudsman.

The competent authorities to take measures and activities for continuous familiarization/information of the citizens in order to ensure adequate protection of citizens' rights in the pension area.

## HEALTH INSURANCE AND PROTECTION

The Ombudsman, acting upon complaints of citizens about health protection and health insurance, found that citizens exercise their rights in difficult and lengthy procedures.

The number of complaints in this area in this report is roughly the same as in the previous year, and the citizens requested intervention from the Ombudsman due to delay in the proceedings upon their requests or complaints to the Ministry of Health, the Health Insurance Fund, they further complained about difficulties in exercising their rights to compulsory health insurance, the right to compensation of funds during the absence from work due to pregnancy, maternity, sickness, injury at work and so on. Also, protection of the rights was required for exercising the right of reimbursement of funds for received medical services, the right of referral to treatment abroad, the rights following a completed hospital treatment and so on. A smaller number of complaints of citizens were filed for reckless, incompetent and inferior treatment.

Acting on a large number of complaints filed by members of the Roma community for not issuing a discharge letter from several clinics in Skopje because of unpaid debt of patients for health services rendered, the Ombudsman through examination of the allegations of the complainants, and after establishing the facts, confirmed the allegations that the citizens filing the submissions were conditioned by the clinics in Skopje to pay the debt for health services rendered so that a discharge letter could be issued.

The Ombudsman submitted indications to the directors of Skopje clinics and stressed that

such an action infringes the rights of citizens as patients. According to the Ombudsman, the issuing of the discharge letter may in no case be conditioned by prior payment of debt or co-payments for health services rendered, because the discharge letter is issued after completion of hospital treatment and the citizens find it is necessary for further treatment.

In all cases the suggestions by the Ombudsman were accepted and the citizens were given a discharge letter.

Regarding the complaints of citizens about dissatisfaction with the amount and manner of calculation of the participation for health services rendered, the Ombudsman asked the clinics and the Health Insurance Fund to determine the actual situation in each case individually, and based thereon to perform calculation of the amount of the participation. In cases in which the Fund found an error in the calculation, measures were taken, where after citizens were charged the actual amount of participation.

Similar to the previous year, in the reporting period as well, there was a significant number of complaints related to the delay in the proceedings on the requests and complaints of citizens before the Health Insurance Fund and the Ministry of Health. In this context, citizens protested because the first instance authority had not acted on the cases in a timely manner, in a case when the Ministry of Health accepted their appeal and returned the case for reconsideration and decision. The same situation was noted with the Ministry of Health, especially due to delayed action on a verdict of the Administrative Court.

The Ombudsman established inefficient and untimely actions upon citizens' requests and exceeding of the legal deadline for actions and adoption of decision, and, as a result, submitted an indication to the above-stated authorities and informed the Minister for Health in a special report.

After these interventions, it was acted on some of the requirements of citizens, but the Ministry of Health has still not acted on certain cases, so that the citizens have been waiting for a longer period for their cases to be resolved.

In order to realize the situation with the untimely proceedings of the Health Insurance Fund and the Ministry of Health on the citizens' requests and complaints, the Ombudsman conducted a research through a questionnaire distributed to all regional offices of the Fund and to the Ministry of Health, where after they prepared a special information including findings and recommendations.

There were also complaints about the unlawful collection for health services which are free, in accordance with the legislation, as well as charging citizens a higher participation without issuing fiscal bills. These complaints were submitted by women and girls of the Roma community in the Municipality of Shuto Orizari, who are dissatisfied since there is no gynaecologist in the municipality in which they live, as well as with the treatment they received by the selected personal gynaecologists in other municipalities.

In order to establish the factual situation, the Ombudsman asked the Health Insurance Fund and the State Sanitary and Health Inspectorate in each case to perform control in the listed gynaecological health institutions and sanctioning of possible unlawful conduct of the mentioned gynaecologists.

The afore-stated authorities did not find any irregularities in the work of the gynaecological healthcare facilities, except in one case where incomplete medication therapy for emergencies was determined. The Commission assessing conditions for imposing of contractual penalties for undertaking measures under its competence was notified thereof.

The condition of the right of referral for treatment abroad is similar to the state in the previous year. Citizens faced again lengthy procedures for adopting decisions on treatment abroad, so that the Ombudsman requested acceleration of procedures and decision-making within the legal timeframe. Some of these suggestions have been accepted and decisions on the requests of citizens have been adopted, and some are still pending.

There was also a problem of delay of proceedings for the citizens wishing to exercise their right to recognition of salary compensation for absence from work due to pregnancy, maternity, sickness, injury, etc. In order to accelerate the procedure, the Ombudsman despite the submis-

sions in writing also performed immediate insights, which contributed to partial overcoming of this problem.

Regarding complaints from citizens about inappropriate, unprofessional and inferior treatment, given the fact that the Ombudsman is not qualified to evaluate the actions of the doctors, they addressed the State Sanitary and Health Inspectorate and the Medical Chamber with a request to perform surveillance for determining whether the doctors preserved the medical protocols and rules in the treatment. In none of the cases the allegations of improper, incompetent and inferior treatment by doctors were confirmed.

This year, fewer complaints were received for reimbursement and recognition of funds by the regional offices of the Fund for medical services or procurement of medicines. In most cases citizens' costs for health services were not recognized because they were provided in clinics that have no contract with the Fund. While, after the intervention of the Ombudsman, those citizens who used services in clinics that have a contract with the Fund exercised their rights, that is, their funds were reimbursed.

## CONCLUSIONS

The citizens have been waiting for years for their cases to be resolved, due to the careless and untimely acting upon their requests by the Health Insurance Fund and the Ministry of Health. The work of the Ombudsman is still impeded with failure to submit responses even after the Special Report to the Minister.

Many of Skopje clinics, condition citizens by payment of debt for delivered health services, in order to be given a discharge letter.

Women and girls from the Municipality of Shuto Orizari dissatisfied with the lack of a gynaecologist in the municipality, and the health services provided by the selected personal gynaecologists in other municipalities.

## RECOMMENDATIONS

The Health Insurance Fund and the Ministry should act in a timely and efficient manner, to ensure smooth realization of citizens' rights as patients and the Minister for Health should dedicate utmost attention to the Ombudsman's interventions, indicating major problems in the functioning of the bodies under their competence.

Undertaking measures for the smooth realization of the rights of citizens as patients with actions upon their requests within the legal timeframe.

The citizen-patient should be issued a discharge letter after their completion of hospital treatment and the collection of debt should be sought in an appropriate procedure.

Considering of the possibility of opening a gynaecological health institution in the Municipality of Shuto Orizari, in accordance with the needs of women and girls from this municipality.

## RIGHTS OF CHILDREN

### Introductory remarks

On the 25<sup>th</sup> anniversary from the adoption of the Convention on the Rights of Children, which has been ratified by the Republic of Macedonia, the Ombudsman concluded that children's rights are still not fully exercised in the family, schools, institutions for care of children, and the guiding principles of the Convention are still not enough observed. The direct contacts with representatives of children from most primary and secondary schools in the Republic of Macedonia, and talks with children of different ages during their visits to the institution reaffirmed the need of introducing a special curriculum content in the educational process, in order to familiarize children with their rights, means and mechanisms for their protection, which will contribute to increase the knowledge of children on rights in general, as well as skills to recognise possible violation of rights and report such violations. In that regard, in order to improve the current situation with the knowledge of children about their rights, the Ombudsman on the occasion of this anniversary, in cooperation with UNICEF, launched a web application, that is, an interactive game designed for children aged 8 to 12 years.

### Rights of children in the family

The role of the family and the impact on the normal development of the child is of great importance, and the task of parents is to create conditions for continuous growth and upbringing of the child, so that it could grow into a person who will know how to value the effort made, embracing positive values and respecting their own, and other characteristics and cultural features. Because of that, under the Convention on the Rights of Children and the Law on Family, the child has the right to grow with both parents, and the responsibility of parents is to care for the rights and best interests of the child. However, despite this commitment, the practice shows that many children, though it is not due to their culpability, are forced to live with only one parent, and very often it is unable for them to be with both parents on an equal basis.

Again, the largest number of complaints in this area submitted to the Ombudsman in 2014 referred to the right of unhindered contacts and meetings of the child with the parent with whom it doesn't live. The subject of these complaints is usually the parent dissatisfaction with the work of the Social Work Centres and their decisions relating to the right to meetings. If in the past years, only parents and close relatives complained about this right of the children, in the reporting period there is active participation of children in order to realize the right to see their parent or brother/ sister. Acting on these complaints, the Ombudsman referred to the Social Work Centres to take into account the best interests of the child in their decisions, to hear its opinion and adopt a decision which will primarily ensure the smooth realization of this right, guaranteed by the Convention.

The Ombudsman had the same position in cases in which one or both parents are serving a prison sentence, pointing out that the right to maintain personal relations and direct contacts of children with their parent/s can only be restricted if it is in violation of the best interests of the child. Considering that in the penitentiary institutions there are no special rooms adapted for the realization of the contacts of the child with the parent who is serving a prison sentence, the Ombudsman considers that it is necessary to consider the possibility of determining facilities adjusted to the realization of meetings between the child and the parent, regardless of the fact that the parent/s are serving a prison sentence.

In cases where parents have questioned the expertise of a team acting on a specific case,



the Ombudsman requested from the Public Institution Institute for Social Affairs to carry out professional supervision over the work of the team and to determine whether the measures undertaken are in the child's interest or in the interest of one of the parents.

In most cases, this right was hindered by the parents themselves who, due to their mutual conflicts and tense relations, use the child as a tool for revenge, and in several cases they went to the extreme, aiming to blame the other parent for sexual abuse of the child while disregarding the impact and trauma on the minor. In such cases, the Ombudsman requested the competent social work centres to use all legal possibilities, that is, to refer parents to appropriate treatment and professional assistance in appropriate facilities and institutions, and work with the child/children to overcome the trauma and possible resistance of the child towards the parent they do not live with.

A small number of complaints were filed by close relatives of the child to exercise the right to see the child, where after the suggestions submitted by the Ombudsman to the centres for social work were accepted and appropriate decisions on visitation were adopted.

Regarding the rights of the child in the family, the Ombudsman considers that the Inter-municipal Centres for Social Work should continuously and devotedly act on each individual case, to monitor the situation in the family, since through that kind of performance, they may timely respond, and also prevent possible abuse of the child in the family.

## **Family and other types of violence against children and violence between children**

The Convention on the Rights of the Children and the Law on Family prohibit domestic violence and provide for measures for protection against any type of violence and abuse, especially in cases where a victim of the violence is a minor. Although in smaller number than the previous year, again, the Ombudsman received complaints about violence on children in the family, at school, as well as complaints about violence among children.

The conclusion from the actions undertaken on these complaints is that most frequently domestic violence is reported by the victims themselves, or close family members, and in one case protection of the child against domestic violence, in particular, inappropriate behaviour of the parent, was demanded by the Inter-Municipal Centre for Social Work.

The Ombudsman having examined the allegations in all cases individually requested from the Inter-Municipal Centres for Social Work and the police authorities to undertake measures to fully establish the actual state, indicating the obligations to undertake measures for protection of victims of domestic violence, but also measures for the perpetrators of violence. Even in cases where allegations of committed domestic violence were not confirmed, the Ombudsman requested from the Inter-Municipal Centres for Social Work to monitor the family, that is by overseeing the execution of parental rights in the longer term to ensure that the child is not a victim of violence, that is, that the family created all conditions for proper growth and development of the child.

Regarding the complaints about psychological and physical violence against children by teaching staff, the Ombudsman performed immediate insights, and following their interventions the school examined the case and undertook appropriate measures. So that, in one case although the allegations of violence against a child/student were not substantiated with certainty, the school principal proposed transferring of the teacher to another school, and in another case the teacher apologized to the parents, changing their behaviour towards children in school. In the third case, acting at the request of a parent for inappropriate behaviour towards the child in a music school, the teacher was replaced by another one. In all cases, the Ombudsman requested the State Educational Inspectorate or authorized education inspectorate to intervene, indicating the purpose of education, in accordance with the Law on Primary Education, and the Convention

on the Rights of Children, under which children should be protected from all forms of physical and psychological harassment. Even in cases when physical or psychological violence against children has not been found by the state educational inspector, the principals were given directions to dedicate more attention to the behaviour of the teacher and other staff towards students at the school.

The Ombudsman also monitored the state of violence among students after a complaint filed by a group of parents in a primary school, as well as on their own initiative on the situation in two secondary schools in Skopje. In accordance with their competence, the Ombudsman requested the school principals to undertake measures to control the behaviour of students while they are at school, work with children by the pedagogical-psychological services, as well as planning of activities, or lectures and workshops on overcoming conflict situations and intolerance among students. In response to the Ombudsman's indications, the schools undertook measures, and among other things, initiated the preparation of programmes and protocols for prevention and interactive activities to overcome potential violence among students.

## **Rights of children belonging to vulnerable and marginalized groups**

In the reporting period, the Ombudsman concluded that there are still children who live on the street, children who use drugs and other psychotropic substances, as well as children that due to inadequate care by their parents are seized and referred to child care institutions.

Following the state with the protection and realization of the rights of these children it was established that only Skopje and Bitola have daily centres for street children and there is also a lack of a proper system for the protection and treatment of children who inhale glue and institutions for child care do not give the expected results in terms of the educational impact on children.

A characteristic of all of these groups of children is that they were not entered in the register of births, do not attend schools, are not included in the health care system and the institutional form of care for these children is more practiced.

It is also noted that the families of origin of these children are often poor, without basic means of subsistence, with low educational level or no education, which implies the need for continuous and individual work with each family separately for raising the parenting capacities, and full and proper exercise of parental responsibilities.

The Ombudsman dedicated a round table to children who use drugs ('blow' glue) or use other psychotropic substances, where the current situation of children who use drugs was discussed, and it was concluded that the number of children who use drugs increases and the age for starting drug use has steadily decreased. There is a lack of proper treatment of these children and further care in programmes for rehabilitation and re-socialization, which leads to serious deteriorations of the health condition of children and increased mortality. It is necessary to design a protocol that would regulate the medical treatment, and simultaneously establish parallel programmes for psycho-social support to children and their families.

For the children referred to accommodation in public facilities for the care of children, it is necessary to seriously review the current situation especially because of frequent escapes of protégés of these institutions and the inability of experts to work continuously with each child to overcome the reasons for which it was referred to the institution. Both Public institutions for care of children are located in Skopje, and in addition to children who have educational and social problems they also receive children from other towns, that are children living on the street, victims of domestic or other kind of violence and the like, which further increases the risk of deviant behaviour of the child.

## Health care for children

In the reporting period there was a small number of complaints for exercising the right to health care of children and most frequently the parents required intervention for protection and realization of the right of referral of the child to treatment abroad or intervention for the purchase of certain medical equipment, as an aid in treating the child. The Ombudsman pointed out to the right of the child to the highest level of health care requested assessment of the overall situation in order to determine the need for referral of the child to an appropriate medical institution in the country or abroad, where the child will be given the necessary attention, care and treatment.

The Ombudsman, as in the previous year, again pointed out to the need for full and comprehensive provision of health care and treatment of children, especially in cases when it comes to specific diseases of the child, for which there is no possibility for successful treatment in the country. In addition, the Ombudsman in their regular contact with the parents who submitted complaints advised them about the manner of protection of their rights, that is, recommended initiation of an adequate procedure, becoming involved by sharing their suggestions and opinions.

## Education of children in primary and secondary schools

Primary and secondary education in Republic of Macedonia is free and compulsory. This means that every child has the right and obligation to be included in education, attend the classes regularly, in order to be prepared for responsible life in a free society, in the spirit of understanding, gender equality, and comradeship with other ethnic, national and religious groups.

For the purpose of exercising the right to education, among other things, a right to free transportation of students has been provided for, and creation of conditions for the smooth attending of classes.

Acting on complaints submitted by parents about the violation of this right of the children, the Ombudsman concluded that there are still some schools that do not provide free transportation to students, and they are forced to travel to and from school using their own funds. Such is the case with PS "Braka Miladinovci" in Struga and PS "Vasil Glavinov" in Veles.

Also, some parents pointed to the poor condition of the schools that their children attend, indicating the problem of lack of heating and electricity, which has negative impact on the process of education and children's health.

The Ombudsman intervened to the above-stated schools and stated the duties and responsibilities of undertaking specific and urgent measures to overcome the problems faced by students, all of that regarding the conditions in which students exercise their right to education and the right to free transport. They also demanded undertaking of measures and creating adequate conditions for quality education that will not harm the health of the student. In the context of the procedure of selecting a transport carrier of students, the Ombudsman pointed out that the local government should primarily take into account the quality and safe transportation of students to and from schools in the selection.

Concerning the procedure of conducting the external evaluation in primary and secondary schools, this reporting year, the Ombudsman received only one complaint. Acting thereon, the Ombudsman helped the student to receive a written response after a long time and a decision to be reached on his complaint with an appropriate act by the school.

In terms of realizing children's right to education and the right to have a choice, the Ombudsman intervened in the reporting year to protect the right of choice to students at the PS "26th July" in Shuto Orizari, since their teachers influenced them to choose a particular optional subject, contrary to the interest, wishes or needs of the students. The Ombudsman requested from the State Inspector to conduct a supervision in the school, where after the allegations of the parents were not substantiated, but still the Ombudsman submitted an indication to the school to comply with the basic and guiding principles of the Convention on the Rights of Children, that



is, the best interests of the child, the right to quality education and the child's right to be heard and its opinion to be the basis for the exercise of its rights.

In this reporting year, elections were conducted, and in this context the Ombudsman called for the protection of children from any form of abuse and manipulation, requesting compliance with and consistent application of the Law on Protection of Children and the Law on Primary/Secondary Education, which among other things prohibit political organization and activity and abuse of children.

In order to consider the situation of enrolment of students in the first grade of primary and first year of secondary education, the Ombudsman in 2014 conducted research in 38 elementary and 26 secondary schools in 12 cities, as follows: Skopje, Kumanovo, Strumica, Shtip, Prilep, Bitola, Tetovo, Gostivar, Kichevo, Veles, Kochani and Debar. Among other things, the analysis of the acquired data showed that in the majority of surveyed primary schools, the decision of regionalization in enrolment of first graders was not respected. The mixed ethnic composition of students is not always taken into consideration in the establishment of classes in schools. Also, the tendency to form pure ethnic classes particularly in secondary schools, as well as the refusal of parents to enrol their children in schools or classes where there are members from other communities is worrying. This research leads to the conclusion that classes with pure ethnic composition are also formed due to the language in which classes are followed.

## **Rights of persons/children with special needs**

The Unit for protection of children's rights and persons with special needs continued to monitor the situation with the realization and protection of the rights of this group of citizens and their treatment by the authorities and institutions under the Convention on the Rights of Children and the Convention on the Rights of Persons with Disability.

Protection of the rights on behalf of the citizens belonging to this category was requested from the Ombudsman by some members of the National Association of Deaf People and People with Impaired Hearing from Skopje to exercise the right to an interpreter in proceedings before the bodies and institutions. The Ombudsman, acting on a complaint, for the purpose of smooth realization of this right of persons with disabilities, referred to the Ministry of Labour and Social Policy and urged precise adherence to the right of providing an interpreter that is, increasing the number of trained experts on sign language. Among other things, the Ombudsman pointed to the obligation pursuant to the ratified Convention on the Rights of Persons with Disabilities in compliance wherewith the state is legally bound to provide the right to deaf people for professional sign language interpreters, which will simplify the accessibility of these persons to various institutions of the system. The Ministry of Labour and Social Policy informed that at the level of the Republic of Macedonia a total of 16 licensed interpreters of sign language were registered, that deaf people can engage for their own personal needs, but also in communication with the relevant institutions, on the basis of the decision adopted by the Centre for Social Work, which recognizes the right to an interpreter of the deaf person. Furthermore, in order to continuously increase the number of licensed sign language interpreters for 2014, additional resources have been provided for organizing training of sign language, within the existing programme activities of the National Association of Deaf People and People with Impaired Hearing of Macedonia and the Commission on Sign Language and 120 pharmacists attended basic level of training for elementary communication in several cities throughout the country, for which the budget of the Ministry provided additional funds.

The amendments to the Law on Social Protection introduced the right to a supplement for deafness for completely deaf people, so that the Ombudsman, acting on a complaint by a person for exercising the right to this supplement managed to assist in the smooth realization of this right before the Centre for Social Work.

Acting on a complaint based on a delay in the procedure for adopting a decision on a claim for the right to a supplement for mobility due to lack of findings and opinion of the competent authority, the Ombudsman requested the Inter-municipal Centre for Social Work to provide the necessary findings ex officio, whereon it was acted and a decision on exercising the right was adopted.

In connection with the exercise of the rights of children with disabilities in the family, school and institutions for the care of children, the Ombudsman helped a child to be placed under the guardianship of the father and live with him, and not in another family. Providing of all conditions for free and inclusive education by a possibility for attending of classes by a child in a wheelchair and proper equipping with a computer on an equal basis with other students in the class. They also helped the school and the local authorities to provide transport for the child with special needs in an adapted vehicle, in accordance with the disability of the child. At the same time, after the intervention of the Ombudsman, the Ministry of Labour and Social Policy undertook measures for proper care of a child with a disability who was previously accommodated in an inappropriate institution.

The Ombudsman, inspired by that particular case and the findings regarding the categorization of children with special needs included in special schools in 2014, as well, emphasized the need for revision of the existing rulebooks for determining the type and level of disability and special needs of persons with impaired development. In this context, they pointed out that by means of a relevant act, the bodies and institutions authorized to issue findings and opinion about disabled children and persons should be established and the possible anomalies in the issuance of findings and opinions about the disability of children/persons should be overcome, since different legal entities issue findings which often do not reflect the real psycho-physical condition of the child/person with a disability.

This year, as well, the Ombudsman acted upon complaints about the untimely, delayed payment of the reimbursed contributions for self-employed disabled persons in protection companies. The Ombudsman referred to the Ministry of Labour and Social Policy, indicating that the untimely payment of reimbursed contributions jeopardises the existence, profitability and liquidity of companies of disabled people, thus limiting their ability to work smoothly, and it has a negative impact on the existence of self-employed persons with disabilities and their families.

Despite the answer that efforts were made for regular payment of these funds, the Ombudsman concluded that there was further delay in returning the contributions and submitted a special Information to the Minister for Labour and Social Policy.

## **Cooperation between authorities and organizations with the Ombudsman in the area of children's rights**

The cooperation of the state administration bodies with the Ombudsman in the area of children's rights is at a satisfactory level, but still it is not acted on their requests, opinions and recommendations in a timely manner, thus tolerating the violations of children's rights. Namely, the Ombudsman emphasized the need for faster and more efficient action of the authorities to protect the rights of children, in order to prevent the possible violation, and taking timely measures to protect the child from harm and abuse, regardless whether the violation is by the parent, teacher or another person. When they adopt their decisions authorities should take into account the best interests of the child and to create the necessary financial and other conditions for normal growth and development of every child for its safe life, highest level of care and conditions for the exercise of the rights guaranteed by the Convention on the Rights of Children.

## CONCLUSIONS

Children are still not treated adequately in the family, particularly in cases of disagreement between the parents.

The right to free education is not respected in all schools, so some of the children are forced to pay for transportation to school.

The children living on the streets, those who are drug users and children with educational and social problems are children at risk, and the state does not yet have a complete system for their effective protection and provision of access to their rights.

Children belonging to the Roma community are mostly segregated in special classes when they enrol in the first grade of primary education and first year of secondary education.

Children/persons with disabilities still face problems relating to the access to and exercising of their rights.

## RECOMMENDATIONS

The Inter-municipal Centres for Social Work should undertake continuous measures to monitor and work with families to improve the relationship between parents and children.

Creating appropriate conditions for achieving quality education and the right to free transportation to all schools in the state.

All bodies/institutions/services and facilities should seriously undertake measures aimed at providing comprehensive and quality care, professional support and medical treatment of children at risk.

Due compliance with the Law on Elementary/Secondary Education in enrolment of students and respecting of multi-ethnicity in the creation of classes in schools.

Creation of practical conditions for the smooth realization of the rights of children/persons with disabilities.

## RIGHTS OF HIGHER EDUCATION

The number of complaints to the Ombudsman for realization and protection of higher education rights significantly reduced in 2014. Citizens most frequently requested an intervention due to a delay in the procedures for awarding scholarships, accommodation in student dormitories, exemption from fees, one-off monetary grant for preparation of Master's thesis, protection of rights in the procedure for specialization, and other rights of students in higher education institutions.

Acting on complaints on specialization at the Faculty of Dentistry at the University "Ss. Cyril and Methodius" Skopje, the Ombudsman concluded that all candidates who applied for specialization faced this problem, that is, determined that the preliminary list of candidates was published by the faculty and the final list of admitted candidates was not published for several months. The Ombudsman, having determined the actual state, established delay of the procedure of the publication of the final list, at the suggestion of the Ministry of Health, so that the enrolment would begin with the beginning of the winter semester. Indicating the entrance requirements of specialization and deadlines for conducting the procedure in accordance with the Law on Health Care, the Ombudsman demanded announcement of the final list of admitted candidates, for the purpose of smooth realization of the right and possible further protection of the rejected candidates. The University accepted Ombudsman's suggestion, publishing the list of admitted candidates in all areas, and the candidates were issued a decision on approval of specialization.

Although in a smaller number, in this reporting period citizens requested protection before

the Ombudsman due to refusing the issuance of a Certificate of completion of studies cycle, conditioning the issuance of the Certificate by paying the required amount for evaluation and defence of a doctoral thesis. The Ombudsman in these cases requested complete and adequate implementation of the Law on Higher Education and the Decision determining the amount of fees for tuition and preparation of the doctoral dissertation, and also pointed to the Constitution under which laws and regulations cannot have retroactive effect except in cases where it is more favourable for the citizens. The Ombudsman's suggestion was accepted and candidates were issued the required Certificate.

Several complaints were submitted by students who dissatisfied with the decisions of the competent Ministry of Education, in connection with the awarding of student scholarships, appealed to the State Commission for deciding in administrative procedure and employment procedure in the second degree, since no measures were undertaken to reach a decision within the legal timeframe. Acting on these complaints, the Ombudsman researched the respective cases before the State Commission for deciding in administrative procedure and employment procedure in the second degree, but did not establish a violation of the right of complainants, who in the meantime received Decisions on the complaints.

## CONCLUSIONS

The practice of certain faculties to condition their students/trainees/ doctoral candidates with payment of an outstanding debt in order to obtain a Certificate of completion of an education cycle continued.

There are untimely actions on the requests of the Ombudsman by the Department for Student Standards within the Ministry of Education and Science, as well as by the State Commission for deciding in administrative procedure and employment procedure in the second degree.

## RECOMMENDATIONS

The issuance of a Certificate of completion of the education cycle should not be conditioned and the Law on Higher Education consistently applied.

Measures should be undertaken in order to promptly act on the requests of citizens for exercising of certain rights and to provide timely response to the Ombudsman for actions undertaken by the authorities.

## LABOUR RELATIONS

This report year citizens submitted complaints and required the intervention of the Ombudsman for the protection of labour rights mostly in procedures of employment, termination of employment and procedures for payment of salary. They also sought protection in the procedures of deployment, disciplinary proceedings, proceedings before the Employment Agency for unpaid severance and other procedures relating to labour relations.

In recruitment procedures in selection of civil servants it was indicated that the selected candidate did not meet the requirements according to the published announcement or that the procedure for employment of civil servants was not legally conducted. Also, citizens complained about violation of the legal deadlines by the authority conducting the employment and adoption

of a decision on non-selection of a candidate although the competent commission on the implementation of employment had delivered a ranking list of candidates that are eligible.

Upon these complaints to the Commission deciding on appeals and complaints of civil servants within the Administration Agency, requests, suggestions and indications in the process of deciding on appeals were submitted, so that it would be acted in accordance with the Law on Civil Servants, which in most cases were accepted and acted upon following the Ombudsman's intervention, that is, decisions were adopted to accept the complaints of the citizens.

Some of the complaints were about the implementation of the employment of civil servants and were submitted by candidates who expressed dissatisfaction with the ambiguous situation regarding the implementation of psychological testing. Namely, the citizens demanded a response if and when it is possible for a candidate who received the professional opinion of an engaged expert to be inadequate for the job position for which they applied to be referred to take a psychological test for a second time. They also expressed frustration with the (non) delivering of an opinion on an appropriate or inappropriate candidate by a licensed professional engaged in the implementation of psychological testing.

Acting on these cases, the Ombudsman requested the Administration Agency and the Ministry of Information Society and Administration to respond regarding the above-stated issues, where after they were informed that "Vista Group" LLC and the Institute for Sociological, Political and Juridical Research were selected as an independent accredited professional institution to conduct the psychological testing and deliver a professional opinion. The Administration Agency stated that it had signed a Memorandum of Cooperation and the Ombudsman asked the Administration Agency to submit the Memorandum of Cooperation, which has not yet been delivered to the Ombudsman.

Such actions obstruct the Ombudsman in acting on these complaints, since they do not receive the required evidence, data and information, and the Agency for Administration explains the failure to submit the Memorandum of Cooperation with the lack of consent from the other signatory, that is, "Vista Group" LLC.

Acting on complaints for protection of labour rights, the Ombudsman concluded that employments were conducted in a manner that employers tailored the employment terms according to certain candidates without taking account of education, which weakens the capacity of institutions and they cannot meet the needs of citizens in an effective manner. Furthermore, the conclusion remains the same as in last year's report that the administration is politicized and it perform its tasks inefficiently and ineffectively.

Regarding the selection of a candidate who does not meet the conditions under the published announcement, complaints were also submitted for selection of teachers in primary education, where in several cases legal flaws were identified, that is, selection of teachers who do not qualify under the Law on Primary Education and Norms of Teaching Staff. The Ombudsman in these cases requested from the State Education Inspectorate to perform an inspection supervision and to obligate the primary school principals to undertake measures and activities aimed at consistent application of the Law on Primary Education and the Norms of the Teaching Staff. Based on actions on these requests some of the citizens realized their right to employment.

This year, in relation to the exercise of the right to employment, several complaints were submitted by persons who were selected based on the announcement of PE "Makedonski Shumi" - Skopje and signed employment contracts with this enterprise, but after a longer period of time after signing the employment contract they had still not established a labour relation.

On the grounds of these complaints, the Ombudsman submitted requests to the Ministry of Information Society and Administration as an authority in charge to execute the deployment of eligible/selected candidates based on the advertisement on employment of 1600 workers, seeking acceleration of procedures following the signing of the contract of employment, so that the selected candidates could exercise their rights, obligations and responsibilities based on the performance of employment assignments.

In connection with the remarks on the delayed procedures for deployment of selected candidates, the Ministry of Information Society and Administration submitted notifications that for



each of the individual candidates systematized job position at the body that performs the takeover should be provided, agreements by the Ministry of Finance should be provided, it should be determined whether the selected candidate could be taken over by the body that should carry out the takeover in terms of compliance with the act for systematization and title of the selected candidate, that is, their status, education, health condition, place of residence and other circumstances. This procedure was also delayed due to the presidential and early parliamentary elections, since in the respective period no employments were implemented.

Following the harmonization of all circumstances, and after more than ten months of signing the employment contracts, all complainants who demanded intervention by the Ombudsman realized their right to employment by means of takeover.

The actions on these complaints resulted in the conclusion that job announcements for a larger group of employees were placed, on different grounds by one enterprise (PE Makedonski Shumi -Skopje), which only conducted the selection, while the deployment of the selected candidates was performed by another body (Ministry of Information Society and Administration). The practice also showed that the selected candidates were orally informed that the hiring in an authority/facility /institution would be for one job position, but in the implementation of the takeover they were given contracts of employment for another job position. These takeovers were conducted without determining the actual need of the body/institution in which they were deployed, that is, they did not participate in the procedure of selection of candidates.

Acting upon complaints of citizens who requested intervention since decisions on termination of their employment were adopted, the Ombudsman indicated which legal provisions were incorrectly applied or not applied making the decision for termination of employment null and void.

In this context, complaints were filed by employees of the municipal administration of the Municipality of Bogovinje and the Municipality of Studenichani who requested protection from the Ombudsman pointing out that the mayors adopted decisions on termination of their employment without conducting the legally prescribed procedure for violation of official duty.

In these cases, the Ombudsman found formal inadequacies in the decisions on termination of employment and that the insurance registration of the applicants was immediately cancelled without waiting for the outcome of the decision by the second instance commission on the appeals, although that procedure postpones the execution of the decision for termination of employment.

The mayors did not undertake any measures following the interventions of the Ombudsman, not even following the directions provided by the second degree commission, which in the appeal procedure accepted the complaints as grounded due to determined illegal activities and improper application of the Law on Civil Servants. In these cases the proceedings are still ongoing.

Exercising the right to re-employment/insurance registration was demanded by several employees of the Customs Authority. Namely, these people were dismissed from employment and their insurance registration was cancelled, although in the procedure on appeal, the second degree body adopted decisions on modifying or cancelling the decisions on termination of employment.

The Ombudsman concluded that the Customs Authority instead of waiting for the outcome of the proceedings of the second degree authority, immediately after the expiry of the notice period specified in the decisions on termination of employment, proceeded with the submission of documentation to the Employment Agency of the Republic of Macedonia aimed at cancelation of the complainants' insurance. Now, after the expiration of four or five years, it has still not acted on the complainants' requests for re-registration with the insurance on the basis of the decision of the second degree body. The Customs Authority requires complainants to submit final verdicts on the return to work that would explicitly require employee's returning to work even though in this case such a decision may not be brought, due to the lack of legal termination of employment.

Even after receiving several requests and suggestions, for the Customs Authority to proceed with insurance re-registration of the complainants, the Customs Authority continues with

the bureaucratic attitude, demanding unfounded explanations for such treatment without taking into consideration that the complainants suffer inestimable damages, since for more than four, that is, five years they do not exercise employment rights.

In that respect, in order to cease the phenomena of cancelling the insurance based solely on a decision for termination of employment, without waiting for the outcome of the adoption of a decision by the second instance Commission, which conditions the finality of the decision on termination of employment and its implementation, the Ombudsman submitted an opinion to the Employment Agency, so that this authority in carrying out the insurance cancelation of the employee would request the body-employer to produce evidence of the finality of the decision on termination of employment, which is the basis for the cancelation activity.

According to the Ombudsman, the cancelation of the insurance only based on the decision for termination of employment without waiting for the outcome of the second instance decision causes problems and legal uncertainty among employees and, as a result, submitted an Information to the Minister for Labour and Social Policy with the request for modification and amending of the Law on Labour Relations. The Ombudsman demanded specification when the insurance of an employee, who filed a complaint against the decision on cancelation of the employment contract, could be cancelled, to provide an opportunity for registration in the insurance when there is such a legal state, and the possibility for reregistration of the employee's insurance, based on a secondary decision, adopted later than the specified legal deadline, due to objective reasons.

As for the cases in which protection was sought, because of payment of lower salary and salary allowances, the Ombudsman pointed to a consistent application of the legal provisions, especially payment of salary and salary allowances, according to the established legal coefficients and points.

The Ombudsman, also received a significant number of complaints submitted by primary and secondary school teachers, regarding the decisions on reduction of their salary adopted by the Principals due to greatest discrepancies regarding the indicators obtained from the conducted external evaluation of the achievements of student successfulness in the 2013/2014 school year, based on the submitted Summary report by the State Examination Centre.

In cases in which teachers filed a complaint to the School Board, the Ombudsman submitted requests to the School Boards for adequate treatment to the complaints, in order to establish the overall actual situation when determining the discrepancies of the teachers. In most cases decisions, rejecting the complaints of the teachers as unfounded, were adopted, and a small number of decisions on acceptance of the complaints and annulment of the decisions on salary reduction, were adopted.

From the content of the decisions rejecting teachers' complaints it is obvious that the School Board did not request submission of documentation by the State Examination Centre, in order to determine the facts and to verify the grounds of the determined deviations in teachers' evaluations, but it was immediately established that the complaints were ungrounded, based on the justification that the teacher to whom a decision on reduction of salary was adopted, is included in the summary report, that is, in the obtained results.

Notwithstanding the above, in handling the complaints, the Ombudsman found that some school boards submitted a conclusion to teachers who filed complaints, as a common act on submitted complaints, stating that they were not competent to decide on complaints. In these cases, the Ombudsman indicated to the presidents of the school boards that, in accordance with the Law on Primary Education and the Law on Secondary Education, the school board decides on complaints and grievances of the employees of the school and asked the School Board to act on the complaints of the teachers and to adopt an individual decision for each teacher who filed a complaint on the decision determining salary reduction, without it being a conclusion as a common act. These suggestions were not accepted by the President of the School Board of the secondary economic school "Vasil Antevski Dren" Skopje and the primary school "Rajko Zhinzifov" Skopje, causing some teachers to undertake action before the competent court.

The Ombudsman, regarding an issued Decision to reduce the salary of a primary school teacher from Tetovo, established that in the legal note the teacher was wrongly advised that against that decision he/she is entitled to appeal to the Administrative Court Skopje deciding in

administrative procedure and employment procedure in the second degree.

The Ombudsman submitted an indication to the primary school principal and demanded undertaking of measures to adopt a new decision and in the legal note the complainant to be instructed about the right to submit a complaint to the School Board of the primary school, since the body referred to in the initial decision does not exist in the legal system of the Republic of Macedonia.

Regarding the complaints of teachers who received decisions on salary reduction, the Ombudsman submitted an information to the Minister for Education and Science, recommending that specific and appropriate measures should be undertaken for finding the appropriate criteria and methods, so that the external evaluation would achieve the goal in relation to determining the objectivity and professionalism of teachers in establishing the grade, which will not degrade the achievements and contributions of teachers in general and at the same time they would be motivated to achieve greater success and improve the quality of education of children.

Also, the Ombudsman recommended that measures be undertaken to accurately establish the methodology for the determination of students tested, or in checking the objectivity of a teacher on a particular subject that there is proportional representation of the number of students that during the year received the grades five, four, three and two to the number of students with grades five, four, three and two selected for testing, for all teachers in that subject on a general level, greater transparency in the summary of results for the purpose of determining the objectivity of the teacher, which is currently only the competence of the State Examination Centre. Furthermore, undertaking measures to amend the legal provisions, so that teachers, after receiving the summary report, would have the right to appeal before the summary report is submitted to the principals. The Ombudsman also demanded undertaking measures to amend the legal provisions regarding the duration of the period for which the teacher has to receive lower salary, and bring it in line with the Labour Law, and in making decisions on punishment to particularly take account the overall effort and work of the teacher during the year, in particular the results achieved during participation in competitions at national and regional level, in which the school, due to the teacher's engagement, acquired awards, certificates, and so on.

Acting on complaints regarding protection of labour rights, in the reporting period the Ombudsman found several cases in which citizens, obtaining a decision from the State Commission for deciding in administrative procedure and employment procedure in the second degree to which they appealed on a decision relating to labour relations and received a decision rejecting the complaint as unfounded, instead of exercising the further protection of rights before the competent basic courts instituted administrative proceedings before the Administrative Court of the Republic of Macedonia. Citizens most frequently initiate such procedures, due to insufficient information about where and before which authority they may achieve further protection of rights on receiving a decision by the State Commission, when their complaint is rejected and because the legal note does not provide specific data, as to which Court is competent for them to initiate proceedings.

In order to enable citizens more efficient realization of the rights in this respect, bearing in mind the principle of ignorant party, the Ombudsman submitted an opinion to the State Commission for deciding in administrative procedure and employment procedure in the second degree, that it is necessary to determine precise and clear legal advice in its decisions, particularly for those cases that relate to decisions on labour rights.

Following the delivery of the opinion and acting on complaints, the Ombudsman concluded that the State Commission for deciding in administrative procedure and employment procedure in the second degree, specified the competent court, in the legal advice of the decisions, before which citizens can initiate further action to protect their rights.



## CONCLUSIONS

The capacities of institutions weaken, the administration is not able to respond on a quality and effective manner to the needs of citizens, since employment is tailored by employers, without taking account of the actual fulfilment of the general and special conditions laid down in the law.

Announcements are placed for recruitment of several employees, but not by the body/ institution which placed the announcement, but to be taken over by other bodies/ institutions and citizens have to wait as long as 10 months to receive employment.

Disciplinary proceedings against employees are not implemented under the prescribed legal procedure and a measure termination of employment is often adopted.

Following the adoption of the decisions on termination of employment, cancelation of the insurance registration of the employee is immediately implemented without waiting for a second instance decision.

## RECOMMENDATIONS

The administration should be effective and genuine service to the citizens, the selection of candidates should be implemented in accordance with the general and special conditions for employment, and not depend on the will of the employer.

Placement of announcements for admission of several people on different grounds, should be made after prior analysis of the situation of the unemployed persons and their professional and educational qualifications, due to their appropriate deployment to job positions in the bodies/institutions.

Consistent conducting of disciplinary proceedings in accordance with the prescribed legal procedure and the most rigid disciplinary measure - termination of employment should not always be brought, but all circumstances that are important for the adoption of a disciplinary measure should be taken into consideration.

The cancelation of the insurance of the employee should be performed following the adoption of a second instance decision, whereby the decision for termination of employment shall become final.

## PROPERTY AND LEGAL RELATIONS

The complaints in the property-legal area submitted during 2014, most frequently related to providing protection of rights in proceedings before the cadastre, denationalization, construction land rights and a small part to the protection of rights in expropriation proceedings, or obtaining legal assistance to exercise the right of ownership or regulation and solution to property-legal disputes between individuals.

Unlike the past years, this reporting year the Ombudsman found considerable decline in the quality of the operation of the Agency for Real Estate Cadastre and its organizational units (the Agency) both in the provision of services to citizens, and in the cooperation with the Ombudsman.

Based on complaints filed by citizens, whereon the Ombudsman acted within their competence, an impression may be obtained that they face enormous bureaucratic problems every day, since they do not always receive the requested services from the cadastre in a quality and

timely manner and according to the principles of legality, professionalism, service orientation, professionalism and responsibility for operations.

According to the Ombudsman, there is a lack of internal control mechanisms in respect of determining the facts of the completeness of the case, the basis for issuance of the certificate and the appropriateness of the provided explanation.

Furthermore, the basic principle of operation of the Agency is that almost every cadastral officer independently and without control issues certificates on the applications for registration of a change in the real estate cadastre and there is selectivity and inequality in the treatment of cases arising from the same factual and legal relation.

In particular, certain applications where to citizens attached effective and enforceable court decisions, adopted by civil courts, which determine their right to ownership of a certain real estate, are rejected on the grounds that the court incorrectly applied a certain law, and that it was supposed to apply another law and that another entity should have been sued, for example the user of the property and the like. In some cases, rather than seeking removal of the administrative flaw, the applications were immediately rejected, for example because the prepared report lacked a digital signature, although the report has no formal deficiency, and the legal basis was adopted on the grounds thereof. However, for other cases, the lack of such certificate did not prevent the registration or change in the cadastre to be/have been executed.

The Ombudsman considered that the parties are in a hopeless situation also because the cadastre continuously fails to comply with and does not act in accordance with the indications provided and legal views expressed in the decisions of the Administrative Court, which annulled the issued certificates.

Furthermore, for not a small number of cases, there is no evidence from which it can be established with certainty that the issued certificate or other cadastre act was duly delivered to the party, so that it would be able to use legal means to further protect its rights.

Consequently, the Agency, instead of removing the errors made in collecting and recording data, calculating the real estate area, the personal data of the parties, the address data of real estate, etc. ex officio, it almost always requires citizens to submit written requests and be exposed to the payment of unnecessary costs.

For the Ombudsman, it is an undisputable fact that in the procedures for establishing real estate cadastre on the entire territory of the Republic of Macedonia, through the systematic registration of real estate rights or conversion of data from the land cadastre into the real estate cadastre, certain individuals were deleted as owners or the previous condition which was undisputed between the parties was changed, so that practically there is a difference which is beyond the limits permissible by geodesy.

Thus, some plots were enlarged, other were reduced, and there is also no overlapping of cadastral boundary lines on the site (entering of one parcel into another and now they are in the neighbouring estate) with the plans of the cadastral parcels.

This situation is due to several factors such as: errors in the aero photogrammetric shooting, decrypting errors, errors in mapping of plans or errors when measuring on the spot.

In that respect, it is not clear on which legal basis, the boundary between parcels was moved by the plane recording, as it is not clear whether a technical fault or other basis is concerned, on the grounds of which a boundary of parcels different from the existing one was marked.

The position of the cadastre is that these citizens did not lose their right to the property, but they, pursuant to the Law on Real Estate Cadastre, have the right to individually request exposing of their plots, wherein they are obliged to include the legal grounds proving the right to ownership (verdicts, contracts on purchase or sale, inheritance decision), and to enclose a geodetic report prepared by a private geodetic company.

The Ombudsman considers that such situations constitute a violation of the constitutionally guaranteed right of ownership and lead to disabling or restricting the free disposal of property by the citizens for which they unjustifiably suffer harmful consequences. Therefore, they suggest that citizens should not be exposed to unnecessary costs and bureaucratic procedures, problematic legal situations, due to the lack of professionalism and inefficiency of the Cadastre Agency.

The fact that no action on accountability is undertaken for these serious administrative shortcomings and harmonization of the actual situation is worrying. Even after the intervention of the Ombudsman for undertaking action to inspect and control the legality of the procedures, formal responses were received that the party should submit a new application/request, then that the case along with its writings on the occasion of a complaint in an administrative dispute was forwarded to the competence of the Administrative Court and the like.

As regards the procedures for denationalisation, the Ombudsman can only repeat the previously stated findings of this process, and that is that the weaknesses in terms of exceeding the legally set deadlines for action and decision-making at all levels of the proceedings continue to exist.

Despite that, and regarding the quality of the operation, it is a fact that all the competent authorities for denationalisation have a tendency for persistency in the irregular application of the substantive law (the Law on Denationalisation, Law on General Administrative Procedure and the Law on Administrative Disputes), which has direct influence on securing efficient and timely protection of the constitutional and legal rights of the citizens by the Ombudsman.

The process of privatization of urban land, on the other hand, has been immobile for years and in these proceedings citizens face difficulties arising from the legislation and from the inability of the competent authority - the Authority for Property and Legal Affairs, to give an appropriate and quality response to their needs.

There are numerous problems that citizens have regarding the regulation of the status of their property, but without exception they primarily react to the duration of the procedures in the Authority for Property and Legal Affairs and its organizational units, or their inefficiency and uneconomical treatment, leading to unnecessary additional complications of each individual case.

The huge number of cases and understaffing are only a small part of the reasons that cause such a situation, as the main reasons for the delay of the procedure are still subjective weaknesses, lack of internal coordination of the bodies and inefficiency and incompetence in the operation. According to the Ombudsman, nothing can justify the fact that the handling of the cases and establishing of the actual state, lasts for years and the Ombudsman is informed that the procedure is on-going and that the party will obtain the decision when the case is resolved.

Such a manner of operation is to the detriment of citizens, because not the body *ex officio*, but the parties are obliged to provide a large number of documents and illogically be exposed to payment of charges by submitting documents with a later date.

Frequent changes to the legislation on privatization of urban land and changing of the entities, conditions and bodies whereto requests may be submitted, further complicates the exercise of this right.

Given the fact that legal and property relations have not been solved for a long time, one may justifiably ask the question whether they can be resolved in these proceedings and under such conditions.

Therefore, for the full completion of this process and efficient and effective exercise of the rights of all users to building land, there is a need to develop possible normative assumptions so that the actual state may become legal.

Especially if we bear in mind that many citizens did not transfer their property to their name when they bought it, so the property is only formally, but for generations, registered to those from whom it had been purchased, although they have not right to it. Long-term administering of such procedures for certain people is a waste of time and money, because the result is known in advance, and it is that the right cannot be achieved.

## CONCLUSIONS

The Agency for Real Estate Cadastre in its operation does not respect the principles of legality, professionalism, service orientation, professionalism and accountability in the operations.

Exposing of citizens to unforeseen and unnecessary costs, as well as a series of bureaucratic procedures and often unsolvable legal situations, caused by the unprofessional, poor quality and ineffective operation of the Cadastre Agency.

The process of denationalization is still on-going, and the procedure is delayed at all levels and from all competent authorities - Ministry of Finance, Administrative Court and Supreme Administrative Court.

Inefficiency of the Authority for Property and Legal Affairs which leads to further complication of each individual case for privatization of construction land.

The privatization of construction land cannot be fully implemented under the current normative solutions.

## RECOMMENDATIONS

Wherever there are conditions the Cadastre Agency should again invite the owners to identify their plots, to submit the documentation and enter them in the real estate cadastre free of charge.

The denationalization process should finally end.

The conditions for privatization of construction land should be simplified and the actual state concerning the rights thereto should become legal.

## URBAN PLANNING AND CONSTRUCTION

Urban planning of settlements and construction of buildings for individual needs or for the public interest, in accordance with the established standards and adopted spatial and urban plans is an important prerequisite for the prosperity of citizens.

The Ombudsman, acting on complaints from citizens about the rights in this area and following the regulations governing this matter, concluded that in 2014 six amendments to the Law on Construction were adopted and one amendment to the Law on Dealing with Illegally Constructed Facilities. Although such interventions aim to improve the quality of legislation, which would regulate the situation in this domain and solve the negative situations, the practice shows that in many regions the state in urban planning is not satisfactory, especially due to the still present urban chaos.

Frequent changes that impose new rules and obligations for citizens and legal entities, lead to confusion about the whole procedure they should implement to obtain approval for construction. Six procedures for amendments to one law in one calendar year, and numerous major interventions implemented in the previous period, are definitely a serious figure and this practice should be abandoned.

The actions of the Ombudsman also lead to the conclusion that in numerous, mostly smaller municipalities, the emergence of a lack of an authorized construction inspector in the municipality is still present. Some of these municipalities, have partially solved that problem by hiring an inspector from another neighbouring municipality, but generally not all municipalities have overcome this problem.

According to the Ombudsman, it is unacceptable that citizens bear harmful consequences and cannot exercise their right, because the local government has not provided the prerequisites for planned and legally provided construction of facilities or due to inefficiency of the local government to timely initiate a procedure for the provision of inspection supervision.

It is also inexcusable that due to a long term unresolved staffing issue in the municipality, citizens may not effectively exercise their rights, which increases the mistrust in the effectiveness of the local self-government.

The Ombudsman concluded that during 2014, as well, there was no implementation of procedures for forced administrative execution of administrative acts for removal of illegal buildings in the period before 2011, that is, the restriction provided for in the Law on Dealing with Illegal Facilities was respected, in accordance wherewith all executive actions of this kind are stopped and the owners of the illegal buildings were given the opportunity to legalize them, provided that they fulfil the legally prescribed conditions.

On the other hand, according to the findings of the Ombudsman from citizens' complaints, although the Law on Dealing with Illegal Facilities has been applied for four years, on a large number of applications submitted for legalization the procedure is still on-going, and there are those whereon the procedure has not started, yet.

In regard to the surveillance, more effective action of authorized urban and construction inspectors while performing inspection supervision on the new facilities that are under construction was noted. There was also greater dynamics in some local self-government units regarding the procedures for adopting detailed urban plans, which are necessary for more efficient implementation of procedures concerning illegally constructed buildings and the possibility of their integration into the plans.

The implementation of the detailed urban plans is still a problem for the municipalities, primarily in the area of construction of facilities of public infrastructure, such as streets, water and sewage network. In this context, there are still cases where households have no connection to the sewage network, although they live in an urban environment, and are forced to use the so called 'field toilet'.

The Ombudsman intervened successfully to the relevant municipal offices to temporarily stop the execution of the procedure for removal of an auxiliary facility, which the applicant and their family were forced to use as a toilet, indicating to the municipality that it has an obligation to build a sewage system to their legally built residential facility wherefore the applicant has fully paid the compensation for regulation of the construction land.

In addition, the Ombudsman, in the direct contacts with citizens, determined that citizens' beneficiaries of social protection are insufficiently informed about their right of free preparation of geodetic report. In such cases, the Ombudsman indicated this right, familiarizing them with the actions that they need to undertake.

The Ombudsman, in this reporting period as well, undertook actions within their competences, in order to protect citizens' rights, addressing a number of requests for information, requests for inspection supervision, interventions, recommendations and indications mostly to the mayors of municipalities, as they are competent to deal with local urban problems.



## CONCLUSIONS

Frequent amendments to the legislation led to confusion among all stakeholders, including citizens, causing increasing legal uncertainty.

The situation in urban planning in smaller municipalities is not satisfactory, among other things, since they do not have authorized construction inspectors.

Insufficient funding of municipalities is an obstacle to the full realization of the urban plans in the area of public infrastructure, which, on the other hand, negatively affects the conditions of urban living.

Although the Law on determining the legal status of illegal buildings provided for the entire procedure to be completed during 2016, there is still a great number of cases with reference whereto the procedure is in progress or it has not commenced.

Citizens' beneficiaries of social protection are insufficiently informed about their right to receive a free geodetic report.

## RECOMMENDATIONS

Adoption of amendments to the legislation, should be practiced following a complete observance of the conditions regarding the practical enforcement of the laws and creating prerequisites for more effective implementation of laws and bylaws.

Undertaking measures to address the problem of staffing in the municipalities for the smooth realization of citizens' rights.

In their budgets municipalities should provide funding for all planned activities, in order to consistently implement urban plans.

Diligent actions on citizens' requests for legalization of illegally constructed facilities.

Municipalities should undertake measures and actions to fully inform citizens - beneficiaries of social protection of the right to free preparation of geodetic report.

## HOUSING RELATIONS

During 2014, the Ombudsman continued to monitor the situation in the housing area and to undertake specific measures for realization and protection of the constitutional and legal rights of citizens in the event of an infringement by the entities competent to act in the area of housing.

In the respective year, the number of complaints by citizens, concerning the violation of rights in the area of housing, has significantly decreased. However, in the majority of cases, they still relate to the inefficient, uneconomical, and uncoordinated operation of the Joint Stock Company for the construction and management of housing and office space of importance for the Republic of Macedonia and its regional units (joint stock company), the Commission for Housing Affairs of the Government of the Republic of Macedonia and the Department for Housing and Communal Affairs of the Ministry of Transport and Communications.

Every country, including the Republic of Macedonia, as a creator of the policy and strategy of housing, by prescribing the legal measures and activities is obliged to provide adequate living conditions for its citizens.

By the amendments to the Law on Housing, the state in normative terms created conditions for regulation of the legal status of the housing units, that is, purchase of state owned flats, flats



which were allotted to the so called 'low-income residents' and flats used by citizens without a proper act on granting that is, persons that have moved to the flat illegally.

Therefore, during 2014, a large number of citizens addressed the Ombudsman with requests for their intervention to speed up the procedures for deciding on requests for purchase of state-owned flats, modification and correction of the conditions and the selling prices of the flats, the status of which was not regulated.

Namely, most of the complaints referred to citizens' requests to purchase the flats under the conditions stipulated by the Law on Sale of State-Owned Flats, that is, by more favourable prices, although by the amendments to the Law on Housing categorization of the flats was made, according to which different conditions for purchase of flats were determined.

With regard to this problem, citizens most frequently requested an intervention before the Joint Stock Company, and in a smaller number - before the Department for Housing and Municipal Affairs of the Ministry of Transport and Communications.

Regarding these cases, the Ombudsman submitted appropriate requests to the competent authorities to expedite the process of decision-making and adopting suitable acts on the adopted decisions. The Joint Stock Company and the Ministry of Transport and Communications respected the interventions by the Ombudsman and timely submitted the required data, information and evidence.

Remarkable was the case of tenants, residents of flats owned by the state, who asked the Ombudsman to intervene before the Joint Stock Company in connection with their failure to act on the requests for removal of defective elevator in the block of flats.

More specifically, following their numerous requests for removal of the elevator defect, the Joint Stock Company replied that the procedure for public procurement of maintenance services was underway.

This situation was confirmed and following the intervention of the Ombudsman, the Joint Stock Company replied, stating that the reason was the circumstance that the Joint Stock Company operates with several facilities, and that it is necessary to perform complete analysis of the elements of the technical documentation and specification so as to determine the type and scope of activities that would be subject to procurement.

This response only confirmed the information that the Ombudsman has gained from the complaints of citizens who over the past years repeatedly complained about the inappropriate management of the Joint Stock Company with the state-owned property, in the case of residential buildings owned by the state.

As a matter of fact, during the procedure, the Ombudsman indisputably concluded that the respective elevator was out of function for more than two years, and the justification of the Joint Stock Company that more extensive analysis for the conducting of a public procurement procedure is required, cannot be justified.

Furthermore, the Ombudsman received several complaints from citizens who sought clarification on the competences of the managers, that is, the entities chosen by the decision of the tenants to carry out the management activities of the community of owners. In this regard, complainants were informed that, in accordance with the provisions of the Law on Housing, managers represent the owners of the separate parts in the residential buildings, in matters concerning the management of residential buildings and take account of the rights and obligations arising from the contract on management services.

Some of the complaints in this reporting period were submitted by persons that are commonly found in social risk and who complained of unjustified delay of procedures for awarding a flat to rent, on various grounds before the Commission for Housing Affairs of the Government of the Republic of Macedonia.

After the interventions of the Ombudsman for exercising the rights of this category of citizens, the Commission almost regularly submitted formal responses that the request would be considered at its next session, then, that the request was not complete, or that it was not competent to decide on the requests.

However, it is evident and indisputable that the cases where the Ombudsman intervened, meanwhile, were neither reviewed, nor were any decisions adopted at the next sessions of the Commission on Housing Affairs.

Given this situation, the Ombudsman remains to the conclusion that the Commission for Housing Affairs in most cases acts extremely unprofessionally and inefficiently and that due to this manner of operation, the citizens are prevented from exercising their right to lease a state-owned flat.

The Ombudsman had the same conclusion in last year's report, presenting the case of the families of the killed members of the security forces in a helicopter crash in 2008, who in 2010, in accordance with the Law on special rights of participants in peacekeeping operations and operations of collective defence outside the territory of the Republic of Macedonia submitted requests for awarding a flat to rent to the Commission for Housing Affairs.

Although it is undisputed that the requirements submitted by the applicants to the Commission for Housing Affairs are legally established, the numerous interventions of the Ombudsman due to undertaking of specific measures to address the housing problems of the family members of the killed peacekeepers had failed, since the Commission even after the expiry of four years has still not reached a decision.

For these reasons, the Ombudsman submitted a Special Report to the Government of the Republic of Macedonia, informing on the specific case and among other things, demanded undertaking measures in a way that it would oblige the Commission on Housing Affairs to act within the meaning of the given interventions.

However, instead of receiving a response on the undertaken measures for the implementation of the specific intervention and finally exercising the right by the respective applicants, again a formal response was received that currently provision of data on the assets of the respective applicants was conducted.

## CONCLUSIONS

The procedures for purchase, that is, on regulation of the status of state-owned flats, the flats allotted to so-called persons with low-income and of flats used by citizens without a proper act on awarding, due to inappropriate treatment and formal reasons are not fully implemented, although the amendments to the Law on Housing created conditions for that.

The Joint Stock Company for the construction and management of housing and office space of importance for the Republic of Macedonia, improperly manages the state-owned property, which restricts the rights of citizens who use such property.

The Commission for Housing Affairs acts extremely unprofessionally and inefficiently and due to that manner of operation, citizens are prevented from exercising their right to lease a state-owned flat.

## RECOMMENDATIONS

For the purpose of final regulation of the legal status of state-owned flats, flats allotted to so-called people with low income and flats used without a proper act on awarding, it is necessary that the procedures for purchase of flats are fully implemented.

Greater care for the property of the state and the rights of people who use such property by the Joint Stock Company for the construction and management of housing and office space of importance for the Republic of Macedonia.

The Commission for Housing Affairs should act and decide on citizens' requests for assigning flat for lease within the legal timeframe in each individual case.

## ENVIRONMENT

The right to a healthy and clean environment is a fundamental right and the overall quality of life depends on its application. Environmental protection under international law means a common and shared responsibility, which means that everyone should be committed to the protection, preservation and promotion of the natural space of the people.

During the period covered by this report, the Ombudsman received a relatively small number of complaints in the area of environmental protection, which only confirms the practice of the past reporting years.

Most of the total number of complaints were related to citizens' complaints about pollution of air, water and soil, some were related to the increased levels of noise, and some citizens' complaints referred to delay in the proceedings on requests for performing inspection supervision.

Following the conditions of the environment, in the reporting period, the Ombudsman initiated a procedure on a case based on their own initiative, referring to the significant pollution of the environment at several locations in the Municipality of Cair.

Considering the serious consequences that human health may suffer due to the negative impact from the pollution of soil and air, as well as the fact that the preservation of the values and improving the conditions for a healthy environment are of primary importance for human health, the Ombudsman referred to the Municipality of Cair - Communal inspection, seeking inspection supervision to be conducted on the stated site and based on the factual situation appropriate legal actions and measures to be undertaken, in order to overcome the risks and harmful effects on human life and health.

Upon Ombudsman's request the necessary actions and measures for clearing the sidewalks and green areas on the part of the Municipality of Cair were immediately undertaken, that is, the situation regarding the pollution was completely restored.

Furthermore, acting on a complaint indicating environment pollution caused by the operations of a legal entity located in the settlement of Pintiya, the Ombudsman initiated proceedings, during which they requested the State Environmental Inspectorate to perform inspection supervision, in order to determine the actual situation and based thereon to undertake the appropriate legal actions and measures.

In response to the request, the Ombudsman received a notice stating that after the inspection supervision by the Inspectorate was conducted, several irregularities in the operations of the legal entity were found, and a Resolution was adopted whereby the legal entity was obliged to undertake appropriate actions to overcome the established situation.

Monitoring the situation regarding the complete fulfilment of the indications, the Ombudsman was informed that during the control supervision it was established that they were completely fulfilled.

In the course of this reporting year, as well, the Ombudsman concluded that the problem of illegal dumps was not overcome, which also resulted in reactions by citizens indicating the necessity for clearing of dumpsites, along the river banks, as well as along regional roads.

In connection with this problem, the Ombudsman intervened before the competent inspection bodies with a recommendation that measures need to be undertaken for overcoming the situation with pollution caused by illegal dumping of waste.

The Ombudsman considers that the present case concerns a long-term and systemic problem, which requires institutional coordination and action by the authorities, both at local and at national level.

Based on the cases of the environment in the reporting period, the Ombudsman established that they had satisfactory cooperation with the competent authorities, that is, timely action on their requests.

On the other hand, the Ombudsman finds that when it comes to monitoring the general situation with air pollution, especially in the cities of Skopje, Bitola, Tetovo and Kichevo where ambient air pollution is steadily increasing, the authorities did not undertake appropriate and timely actions.

In the light of the aforementioned, we can emphasize that the competent inspection authorities, both at the local level and national level, have not taken the necessary legal actions and measures for the timely removal of the sources of pollution, that is, there is a lack of regular and timely monitoring of the level of air pollution.

According to the Ombudsman, it is not allowed for the state to protect and prioritize the interests of great polluters to gain economic profits, and thereby neglect and not take care of the basic human rights to live in a healthy and clean environment.

The insufficient care of the country to overcome the problem of continuing air pollution caused primarily by large industrial facilities, is also due to the extension of deadlines for placing air purification filters, as an obligation not fulfilled by the industrial capacity "Jugohrom", and the deadline for setting up filters has been extended to 2016. This phenomenon is a blatant violation of constitutional and legal rights to a healthy and clean environment, and deviation from the proclaimed constitutional principles to protect and promote it.

In order to reduce the risks of increased levels of harmful particles in the air, and timely follow the advice and recommendations by experts, the Ombudsman considers that it is of great importance that the data from the measurements are sufficiently accessible to the public.

Given that different authorities are involved in various aspects in the protection of the environment and that the presence of information has different procedures, there is a need for providing institutional unification and coordination of information and activities related to the environment, so that the work of inspection bodies in all areas relating to the environment, could be more efficient.

For greater efficiency in the field of protection and improvement of the environment, it is also necessary that all successful cases of the court practice pertaining to violation of the rights to a healthy environment be published and available to citizens and non-governmental organizations, due to education and effective use of the rights to a healthy and clean environment.

## CONCLUSIONS

The lack of effort and the selective approach to overcoming the situation of air pollution caused by the large industrial facilities, resulted in harmful consequences of citizens' health in Skopje, Bitola, Tetovo and Kichevo.

There is a lack of regular and timely observations, monitoring and control of the situation by the competent authorities of the degree of air pollution.

No significant measures and actions in relation to the illegal dumps, causing significant pollution of the environment and nature, have been undertaken.

Lack of education of the citizens and the general public about the preventive measures and protection of the environment and nature.

Lack of sufficient coordination and unification of inspection bodies from various aspects for the purpose of effective protection and promotion of the environment.

## RECOMMENDATIONS

Most urgent undertaking of measures to respect the legal obligation and immediate placing of filters by major pollutants, and non-selective actions by the competent authorities.

The competent authorities should regularly monitor the situation regarding the pollution of the ambient air to reduce the risks of adverse impacts.

Compliance with the prescribed standards in the construction of sites for the disposal of waste, in order to overcome the problem of illegal dumps.

Organizing campaigns and informing citizens of the preventive measures, to achieve protection against the negative impacts and improve the conditions for healthy environment and nature.

Providing institutional coordination of all bodies responsible for the protection and improvement of the environment and nature from different aspects.

## FINANCE AND CUSTOMS

In the area of finance, the main feature is the drastically increased number of citizens' complaints, which is primarily due to the intensification of the forced collection of citizens' liabilities on the basis of tax debts, debts for the broadcasting fee, or on other similar grounds, such as fines for offenses and costs of conducting of proceedings.

The Ombudsman, acting on filed complaints, established irregularities, whereby the Public Revenue Office, the City of Skopje and municipalities are violating the rights of citizens.

Namely, in these cases, the above-stated authorities almost always choose the collection from a bank account as a method of forced tax debt collection. In this regard, commercial banks, although it is the only income on the transaction accounts, deprive citizens of the entire sum of money, which they receive on the basis of salary, pension, allowances on the basis of child support, scholarships, social protection, etc., thus violating the provisions on exemption, limiting of forced collection.

In that respect, the seizure of the entire amount of money that the citizen – the natural person receives on their bank account on the basis of pension, salary, social protection and so on, and leaving them without basic means for survival, according to the Ombudsman represents a violation of their rights, causing unjustified damage, breach of legal rules and action beyond the proclaimed constitutional principles of protection of citizens' fundamental rights and freedoms.

Actions aimed at forced collection of such debts by seizing the amount that certain citizens receive on the grounds of rights to social protection, according to the Ombudsman, constitutes a flagrant violation of their rights, since although practically applied, it is legally impermissible.

Hence, the Ombudsman points out that the state should urgently review the need for a possible exemption from payment of property tax by beneficiaries of social monetary assistance. That, among other things, is due to the fact, that it is always questionable how these people can pay for such a tax, or whether the authorities can conduct the forced collection, without violating their rights.

The Ombudsman, acting on individual cases, indicated to the authorities that enforcement of the tax debt is to be performed with consistent application of the provisions on limitation of execution, normatively prescribed in Article 130 of the Law on Tax Procedure and Article 57 of the Law on Property Taxes and that citizens may be deprived of 1/3 of their income based on salary or pension, while revenues on the basis of social protection, child support, etc. shall not be subject to execution.

In that respect, the Public Revenue Office, the City of Skopje and the municipalities informed the Ombudsman that at the time they adopt the decision on forced collection against a claim to a bank account, they are not aware of the existence of grounds for evaluating the legal basis for restricting the enforcement. In addition, they believe that the underlying provisions should apply only when money is collected by placing a ban on personal income with the employer, the Pension and Disability Insurance Fund or the Ministry of Labour and Social Policy.

Bearing this in mind, the Ombudsman submitted an initiative to the Government of the Republic of Macedonia to develop a proposal for amending the Law on Tax Procedure and the Law on Property Taxes, so as to clarify the provisions when it comes to enforcement against a monetary claim on account with a bank that belongs to a debtor - natural person.

In particular, the Ombudsman demanded envisaging provisions in compliance wherewith the Public Revenue Office, the City of Skopje and the municipalities, should be obliged to prepare the decisions on forced collection against a monetary claim to a bank account which belongs to a natural person respecting the limits of enforcement, taking account of the dignity of the debtors and their families, as well as that the enforcement is more favourable for the debtor.

The Government of the Republic of Macedonia informed the Ombudsman that the initiative was referred to the competence of the Ministry of Finance. The Ministry of Finance informed the Ombudsman that if the competent authorities for collection require an amendment to a law



they would commence preparing a proposal on amending the laws, and not at the request of the Ombudsman.

However, it should be noted that after the Ombudsman's interventions to return the groundlessly collected funds, the Public Revenue Office initiated actions, whereas the administration of the City of Skopje did not undertake actions (except for cases when citizens were deprived of social assistance).

Acting on such cases, the Ombudsman found that the payment or irregular payment of taxes is often a consequence of unprofessional and irresponsible behaviour of certain officials in the collection of the established taxes or the lack of records and refusal to undertake action for that purpose *ex officio*.

In any case, one cannot justify the fact of forced collection of taxes, broadcasting fee and fines from the bank accounts of citizens, without delivering decisions regularly and in a legally prescribed manner for years.

In addition, according to the Ombudsman flaws that cannot be justified are also the cases when property tax is required from citizens who sold the property and the new owner became liable to paying property tax, or for property that does not exist or is registered at addresses where the taxpayer has no property.

It is of particular concern that officials who must respect and act according to the laws in certain cases, act contrary to the prescribed legal procedures.

The Ombudsman concluded that in many cases the officials failed to enforce the legal procedure in order to initiate forced collection, and their arrogant behaviour causes nothing but harassment to citizens and unnecessary crowding in the Public Revenue Office and the City of Skopje. The request and insistence that citizens should submit information and evidence that the bodies, according to the principle of one-stop shop system, can provide themselves, supports the afore-stated conclusion.

This situation is further complicated by the circumstance that the outstanding debt is almost never equal to the amount of the original debt, as it repeatedly multiplies due to charged interest, costs for conducting the procedure and bank commissions.

In this segment, the Ombudsman finds it unfair that all banks have a different tariff rule-book for collection of service fees related to the enforcement and that amount may in some cases be greater than the main debt, as it is unacceptable, but it is an established practice of the operation of the Public Revenue Office in cases of recovery of unfoundedly collected tax or broadcasting fee, that citizens are required to submit written requests and pay administrative fees.

The Ombudsman, acting on different cases, finds and criticizes the situation when due to lack of internal coordination between the Public Revenue Office and PE Macedonian Radio Television even citizens who have paid the debt face forced collection, with a formal excuse that internal connecting of codes for the same user was not performed.

Furthermore, nothing can justify the fact that the administration of the City of Skopje mostly *ex officio* and according to the legally prescribed procedure, does not send the cases and their writings, after an appeal, to the competence of the Ministry of Finance, as a second degree authority.

However, there is also a positive example in this area. It is the Department for second degree administrative procedure, administrative disputes and collection of claims within the Ministry of Finance, which always timely acts upon Ombudsman's interventions and which respects the legal deadline for acting and deciding on an appeal.

With reference to the protection of rights in the area of customs, this reporting year the Ombudsman received a small number of complaints, in which citizens requested intervention in procedures for determining responsibility for a customs offense and they were updated by the corresponding commission and relevant decisions were adopted.

## CONCLUSIONS

Irregularities in procedures for forced collection whereby the Public Revenue Office, the City of Skopje and municipalities violate citizens' rights.

Withdrawal of the overall amount of money that the natural person receives on their bank account on the basis of pension, salary, social protection, child support, etc. and leaving them without basic means of survival.

The Ministry of Finance believes that not the Ombudsman, but only if the competent authorities for collection indicate that there are procedural problems, it will initiate amendments to the Law on Tax Procedure and the Law on Property Taxes.

Unprofessional and irresponsible actions of some officials that must respect and act in compliance with the laws and not act as if they were above the law and create their own procedures, contrary to the legal ones.

Incomplete and inaccurate records of property tax payers and of the broadcasting fee register.

All banks have a different tariff rule-book on charging service fees related to enforcement.

## RECOMMENDATIONS

Forced collection of the tax debt and the broadcasting fee is to be performed with consistent application of the provisions on limitation of execution, care should be taken of the dignity of the debtors and their families, as well as for the fact that enforcement should be more favourable for the debtor.

The state should review the need for exemption from payment of property tax for the beneficiaries of rights on grounds of social protection.

Establishing of accurate records of payers of property tax and broadcasting fee.

The competent authorities should perform the delivery of decisions on establishment and collection of tax, or broadcasting fee and warnings for unpaid debt without exception in the manner and procedure prescribed by the relevant laws.

The regulations governing payment operations should provide for provisions that would enable strict adherence to the provisions of the relevant laws on limiting and exemption from execution.

## CONSUMER RIGHTS

The number and content of complaints in the area of consumer rights in 2014 reflects the dissatisfaction of citizens, who in most cases because of the economic situation in which they find themselves complain, both about the amount of their bills and in respect of accrued interest. Citizens as consumers faced problems due to improper treatment of service providers, and also, as consumers of products of inadequate quality.

Namely, the complaints relate to the bills for electricity, thermal energy supply, the services provided by public utilities, communication services, and complaints relating to the purchased products' deficiency.

Complaints of citizens on the work of the companies performing thermal energy supply concern the manner of calculation of thermal energy through a meter, the quality and price of delivered thermal energy, the calculation for larger heating surfaces, failure to act on reports of

malfunction, failure to act on requests for disconnection from the system, the obligation to disconnected consumers for paying a compensation for engaged power (fixed part) of the thermal energy fee, as well as the collection of old debts.

The method of calculation of thermal energy through a single meter is especially typical of collective housing facilities, where many of the tenants are disconnected from the system. Some of them install new heaters that they do not report, which ultimately leads to unrealistic calculation of thermal energy in active consumers. As a result of these problems to the detriment of active consumers, the Ombudsman requested a verification of the calculations and review of this method of calculation through a single collective meter, since advance payment of bills does not determine the real costs for each consumer. The Ombudsman pointed out that it is necessary to consider all the possibilities and conditions for installation of separate meters for each user of thermal energy.

For the purpose of overcoming the problem of unrealistic calculations for the citizens, the Ombudsman requested greater efficiency in terms of detecting illegal connections to the system, since in compliance with regulations in this area, illegal individual modification of the heating installation is not allowed.

In some of their complaints, citizens complained about the quality of delivered thermal energy and failure to act on reports of malfunction. In order to ensure safe, high quality and continuous supply of thermal energy, the Ombudsman acting on these cases indicated the duties of the supplier and the respect of customer care as one of the conditions for uninterrupted supply of thermal energy.

Predictably, this reporting period was also marked by complaints submitted by disconnected thermal energy consumers who are obliged to pay compensation for engaged power (fixed part) from the compensation for thermal energy. This obligation was imposed by the adoption of the Rulebook on Thermal Energy Supply by the Energy Regulatory Commission, in the case of which the Ombudsman still in its phase of preparation indicated that it would cause contentious situations.

Namely, the collection of this liability especially affected citizens from collective facilities with a single measuring device, since the payment obligation is also imposed on residents of specific entrances that are completely disconnected from the system, since despite the unregistered consumption of thermal energy of the separate line on the common metering device, they are still obliged to pay this duty.

Precisely, as a result of this situation, that is, the liability for payment of a fee for fixed part even in conditions when there is no registered consumption of thermal energy to a separate line of the measuring device, as early as in 2013 the Ombudsman submitted an initiative on amending the Rulebook on Thermal Energy Supply to the Energy Regulatory Commission. However, the regulator did not accept the initiative, that is, the Energy Regulatory Commission found that there was no need to amend the Rulebook on Thermal Energy Supply.

Citizens also filed complaints for protection regarding the expiry of claims and filed complaints seeking more favourable terms to settle the bills for on-going services, due to their reduced economic power. The Ombudsman in these cases advised the citizens to refer to expiry before the competent courts, because the court does not pay attention to expiry of debts ex officio.

Regarding the complaints for using the services of public utilities that perform a communal activity - supplying water and disposing urban waste materials, it was noted that citizens complain about the manner of calculation of consumed water, irregular reading of the meters, faulty water meters, and irregular collection and transportation of communal waste.

The Ombudsman's office received a significant number of complaints on the amount of claims, in which citizens alleged that the calculations are not real and do not reflect the actual consumption of water, due to the irregular reading of meters and applying lump sum calculation. Also, citizens complained about problems with the water supply in certain areas and demanded removal of the flaws of the water supply system. In these cases, the Ombudsman requested ultimate seriousness in the approach to resolution of the disputed states for the purpose of normal operation of the water supply system, pointing to the right of the citizen as a consumer to a

service for permanent and uninterrupted supply of health drinking water.

In some of their complaints, citizens also indicated problems regarding the connection to the water supply network owing to the implementation dynamics, or the amount of costs charged. In all cases, the Ombudsman acted upon the complaints and after checking the allegations, actions aimed at accelerating the connection to the water network were undertaken.

In complaints regarding the (in)accuracy of measuring devices and the manner of their replacement, citizens complained that the inaccuracy of the meters was not timely confirmed by the employees of the public enterprises, obliging them subsequently with charges which do not reflect the actual water consumption. In addition, citizens had remarks on the procedures of meter replacement and the established state on the meter. As a result of such cases, the Ombudsman pointed out that it is necessary to ensure regular control of meters and their replacement to be performed in the presence of the service user, in order to eliminate the possible doubt as to the proper reading of the state of the meter upon replacement thereof. Since this is a technical issue, for which the Ombudsman is unable to establish the facts, in order to verify possible abuse in such cases citizens were advised to refer to PE "Vodovod I Kanalizacija" and request check of the meter, that is, verification, in accordance with the provisions of the Law on Metrology and regulations based on this Law.

In their complaints citizens also asked for advice on overdue and unpaid bills, as well as for a possibility of debt payment in instalments. In these cases, the Ombudsman informed them about the obligation to pay the bills for services received, and indicated to service providers that they should inevitably comply with the provisions of the Law on Obligations regulating the expiry of debt for water supply.

Regarding the complaints for repayment of debt in several instalments and increase in the number of instalments, in most cases the requests of the Ombudsman were accepted. In this respect, a greater effect was reached after the benefits provided by PE "Vodovod I Kanalizacija" to their users during the month of May, whereby customers who have outstanding debts for consumed water (litigated and regular) were given the opportunity to repay the debt without accrued interest for late payment. The second advantage concerned the free registration of illegally connected users.

The complaints about the inefficient operation of public enterprises in connection with the collection and transportation of communal waste were about receiving bills for a service that had not been provided, stating that for the period of indebteding the waste was not collected or no containers for waste collection were placed. The Ombudsman found it disputable that consumers are charged for a service that they did not receive and indicated that it is not allowed to charge for a service that has not been used and requested information regarding the implementation of the service, as well as its dynamics in the dispute periods. However, unfortunately, PE "Komunalna Higijena" did not accept the indications on the grounds that the service was being provided in accordance with the operational programmes of the company and did not allow write-off of old debts, as was the case in the previous year.

Citizens also had remarks on the indebteding for facilities in which they do not reside permanently and the Ombudsman advised them to submit a corresponding request to PE "Komunalna Higijena", since if the housing unit is not continuously used, the company allows reduction to the amount of the service.

This reporting year, there was a problem related to the method used by the company to register payments. Namely, from the casework, it is evident that regular payments of citizens were reallocated to bills for other months that were not cancelled. Due to citizens' suspicion that the funds paid are used to settle a lapsed bill, the Ombudsman requested explanations regarding the recording of payments and stressed that the Law on Obligations should be complied with. The Ombudsman found that due to such a manner of operation it is not clear which debt is timely litigated, that is by the re-allotment of payments users are registered as debtors for bills that they had already paid. The procedure on these complaints is still pending.

This year citizens also submitted complaints relating to the quality of services, the price amount, and indebteding by lapsed debts for the fixed and mobile telephony. Particularly notable are the complaints from citizens stating that for existence of a debt they were notified upon order



of Makedonski Telekom AD by the authorized centre for collection of claims and invited to repay the litigated debt at a discount. In all cases, the Ombudsman requested explanations for the debts, that is, confirmation that a debt recovery lawsuit was initiated within the legal timeframe. The operator acted on these requests and confirmed in all cases that the lawsuit was timely initiated. As a result, citizens were advised to use the given opportunity for repayment of the debt at a discount and to avoid the additional costs that would follow the forced debt collection. This reporting year, as well, problems were detected with the high bills and the unrealistically invoiced amounts. In these cases it is difficult to determine the actual state and the existence of an error in the calculations, so that despite the reaction before certain operators, action was demanded by the Agency for Electronic Communications. For some of the complaints about dissatisfaction with the performance of individual operators, especially of the mobile ones, the Ombudsman requested the Agency for Electronic Communications, as a body responsible for supervising and controlling the work of these service providers, to review the complaints by citizens, where after some citizens realized their rights.

Although citizens submitted fewer complaints about protection of their rights as consumers of material goods, it can be concluded that there is a positive step forward in raising their awareness about their consumer rights. From the casework it is evident that the citizens are becoming more aware of purchased substandard, unsafe or products the characteristics of which do not match the attached declarations. In the handling of these complaints, the Ombudsman asked the State Market Inspectorate, as a competent authority for supervision and control, to conduct inspection supervision, or to provide legal opportunities for the protection of consumers, indicating the consumer's right of free removal of the defect, proportional reduction of the purchase price, replacement of the product with another one or refund of the paid amount, if a defective product had been purchased.

Concerning the operation of Elektrostopanstvo na Makedonija AD Skopje (EVN Macedonia), the complaints usually demanded intervention by the Ombudsman due to a halt in the supply of electricity to the consumers, regulation of an outstanding debt, problems with high bills for consumed electricity, irregular supply, and problems associated with reading the meters and payment of utility fee for street lighting.

The phenomenon that in almost all complaints citizens emphasized their severe financial and material conditions as a reason for their inability to pay the received commitments to EVN Macedonia regularly and constantly require the Ombudsman to undertake action to enable the payment of arrears in several equal instalments is worrying.

The full implementation of the Law on Single Writing off Debts of Citizens, which should be conducted in the forthcoming period, can only somewhat mitigate the situation. Therefore, the state should continuously create policies and undertake measures to raise the standard of the population or to increase the range of people and the amount of the compensation, based on which it subsidizes electricity consumption by annual programmes.

From the casework of the Ombudsman it appears that the services of EVN Macedonia, very frequently do not respect the statutory rules of procedure.

This conclusion was drawn due to the cases when electricity is cut off without an order, when due to interventions on the network or to replacement/taking of metres, private property is entered, without an appropriate act and notice to the owner, then cases when meters are read irregularly even in places that are easily accessible, so consumers are indebted with lump sum and unrealistic bills and the like.

For certain customers a huge problem was caused and it is still caused by the condition which resulted from the transfer of old enforcement cases from the courts, to the notaries and executors.

Nevertheless, it is undeniable that citizens are not always informed and aware of the lawsuits, that is, initiated procedure for collection of a possible debt, since for a longer period of time, sometimes even for decades, they did not receive any judicial acts for debt collection. Consumers find out about that when their account is blocked or when the delivery of electricity has been ceased.



Therefore, in some cases consumers are conditioned and there is abuse of their weakness, by forcing them to pay obligations for which EVN Macedonia has not taken timely measures for forced collection. This, among other things, also refers to the interest that although not imposed by court decisions, and no appropriate additional action for its recovery is initiated, EVN Macedonia using its monopoly position, tells consumers that it is always paid in the end, that is, after the payment of the main debt. Practically, for the consumers it means that they will either pay the interest or they will not be connected to the power supply system, which is unacceptable and means limiting their rights.

In this regard, EVN Macedonia even after the interventions of the Ombudsman acts on individual cases, without an exception with unilateral approach.

Specifically, it presents and calls only on legal provisions which go to their advantage, and completely neglects and does not take into account the legal provisions which guarantee certain consumer rights, that is, it does not take any measures to implement the requests, suggestions and recommendations provided by the Ombudsman for exercising their rights.

Finally, nothing may justify cases when consumers are disconnected for debt for which no proceedings for enforcement was initiated, when selective disconnection is performed, when consumers receive invoices for the 'industry' category for years and it is undisputable that the category 'household' is concerned, when no measures are taken for their indemnity or by means of abuse of power, debts are not written off as expired.

Thus, the Ombudsman often receives information from EVN Macedonia that they cannot find the disconnection order, copies from lawsuits or statements about transfer of enforcement cases and they, as well as the parties, are referred to seek them in the courts. All that is beyond the proclaimed principles of EVN Macedonia's operation - the protection of human rights and the rights of users of their services.

In this segment, Ombudsman's requests for allowing some customers to pay their outstanding debt in instalments, were rejected on the grounds that in the past year EVN Macedonia did not organize campaigns through which citizens are being offered more favourable conditions for the payment of debts for consumed electricity, and when such a decision would be adopted, the public would be timely informed.

However, this is only a formal excuse submitted by EVN Macedonia to the Ombudsman since it is undeniable that certain users are allowed to conclude agreements for the payment of debts in instalments. Moreover, it is undisputed that the agreements concluded are governed by subjective criteria since there is no internal act which would determine the rules and criteria as to which persons may be allowed such a right, what the number of individual instalments would be, and whether they are determined by the total debt or the financial situation of the debtor.

In this section, we should point out the problem of citizens who complain of unfounded indebtedness with a utility fee for street lighting, for settlements in which no system of street lighting was established.

Acting on these complaints, and guided by the principle that citizens should only pay for services they actually receive, the Ombudsman continuously implies and requests local governments to consider the possibility of adopting decisions on exemption from payment of utility fees for public lighting for all settlements in the municipalities where such a system was not established, which also derives from the content of the relevant provisions of the Law on Utility Fees.

Hardly any municipality or its Council has enacted such a decision, and they use different explanations for this situation, and most often refer to the circumstance that the places about which citizens complain that there is no public lighting, are not provided in the Law as settlements.

Therefore, this issue must be systematically addressed since the existing law, as a sanction for failure to adopt such a decision only provides for the possibility the Public Revenue Office to revoke the authority of the local government, which is certainly inadvisable and practically inapplicable, and the question is what citizens would gain from that.

For failure to provide regular maintenance of street lighting, where there is an established

system, local governments exclusively refer to the financial inability to take action in this direction although their budgets and programmes envisage funding for this purpose. However, the attempt of some municipalities to resolve this problem, which is in the interest of its citizens, through public-private partnership, should be supported.

## CONCLUSIONS

The reduced economic power of citizens and the difficult financial and material situation is a reason for citizens' inability to regularly pay due obligations to service providers.

The indebting of disconnected thermal energy consumers for payment of engaged power (fixed part) from the thermal energy fee continued.

Delayed and inefficient treatment by service providers on citizens' report on defects.

Citizens are obliged to pay communal service (collection and transportation of communal waste) even though it was not actually used.

EVN Macedonia does not timely inform citizens that a procedure of forced collection of outstanding debt was initiated against them, it does not respect the statutory rules of procedure and in some cases, conditions and abuses their weakness in order to receive payment for obligations for which it had not taken timely enforcement measures.

EVN Macedonia does not take measures to implement the requests, suggestions and recommendations of the Ombudsman for exercising of citizens' rights.

Selective and unequal method of operation of EVN Macedonia, since governed by subjective criteria, it only allows specific users to conclude agreements for payment of their debts in instalments.

The problem with unjustified collection of utility fee for public lighting or non-exemption from this fee, pursuant to the Law on Utility Fees persists, whereby citizens as individual users pay for services they do not receive.

## RECOMMENDATIONS

To allow frequent actions for citizens to be able to pay their debts in instalments, especially the socially vulnerable categories and write-off of old debts.

It is necessary to legally regulate all individual states and not to join them by registration of the consumption on a single measuring device.

To take timely measures on applications of citizens for a realistic calculation of the service.

To take actions in order to write off the debts for a service that was not provided or was not used.

EVN Macedonia AD - Skopje, in each case and without any exception should practically apply in its operation the formally proclaimed principles of the protection of human rights and the rights of their service users.

EVN Macedonia and other service providers to provide more favourable conditions for the payment of outstanding debt of citizens, especially those belonging to the category of socially vulnerable, disabled and persons with low-income.

Systematic solution to the problem of unjustified payment of utility fee for street lighting for the citizens living on locations where such a system was not established.

## POLICE AUTHORISATIONS

This report year, as well as in the previous one, there were also complaints by citizens concerning the failure of members of the Ministry of Interior to undertake measures and activities in order to protect their life, personal safety and property, excessive use of force in the execution of police authorisations, mandate punishment in infringement procedure and failing to inform citizens on issues in which they are interested and which fall under the competence of the Ministry.

It is important to note that in accordance with the Law on Internal Affairs, in exercising their police authorisations, the members of the Ministry of Interior should be guided by the general principles of law: principle of legality in the operation, principle of professional ethics, impartiality and objectivity, principle of transparency and reliability, principle of responsibility and principle of preventing conflict of interests.

In addition, of particular importance is the regulation and control over the performance of activities of the Ministry. Pursuant to the Law on Internal Affairs, in addition to the internal control, performed by a special organizational unit for the needs of the Ministry (Department for Internal Control and Professional Standards), external control is also provided, undertaken by the Assembly of the Republic of Macedonia and the Ombudsman. Article 64 of the Law on Internal Affairs stipulates that the Ombudsman of the Republic of Macedonia supervises the performance of the Ministry employees under conditions specified by a separate law. In the present case, it is the Law on the Ombudsman.

In this respect, good cooperation must be established between the Ministry and the Ombudsman in order to enable a real balance in achieving both types of control in the execution of Ministry's tasks in the area of police authorisations.

Although, this year cooperation was achieved with various organizational units of the Ministry (Departments, Police stations and in particular the Internal Control Department) in respect of the delivery of the requested information and evidence from the official records, the conclusion remains that when the application of police authorisations is concerned, the responses were of formal nature, so that the Ombudsman could not identify the factual situation.

For these reasons, the Ombudsman used all means provided by the Law on the Ombudsman to establish the facts, including inviting police officers to a conversation in his office. In this regard, the Ombudsman filed criminal charges to the competent basic public prosecutor's offices for six officers who, performing their duty, molested citizens, but the charges were rejected without proper legal arguments and without taking measures to provide the evidence referred to by the Ombudsman.

This especially applies to citizens' complaints about the unlawful and unprofessional conduct of police officers regarding their reports on protection of their life and security, where the Ombudsman, as a rule, received responses that the police officers acted in accordance with the law and rules for police actions. In this regard, it is noted that more persistent citizens are treated by the organizational units of the Ministry as persons filing a false report and charges are filed against them for determining responsibility in infringement proceedings.

For the purpose of eliminating this negative phenomenon in the Ministry, the Ombudsman submitted an initiative to the Constitutional Court of the Republic of Macedonia to review the Article of the Law on Offences Against Public Peace and Order that regulates the so-called "false reporting" (for which the Ministry submits approximately 180 reports to misdemeanour commissions on an annual basis), but the Constitutional Court did not initiate proceedings to assess the constitutionality of this legal solution.

Furthermore, the conclusion is that the Law on Offences against Public Peace and Order also contains other imprecise provisions allowing voluntary application of the law by police officers who easily decide to apply mandate penalties in the form of fines even when there are no conditions for that. The Law on Misdemeanours, which is a procedural law for all offenses, pro-

vides mandate penalty only if the offender admits committing the offense or the official (police officer) personally determines the offense by the use of appropriate technical means and devices, which mostly does not apply to the Law on Offenses against Public Order and Peace.

The Ombudsman submitted a written proposal to the Minister for Interior to launch a procedure for amending the Law on Offense against Public Order and Peace, giving an emphasis to protection of peace and the rights of citizens, and not their punishment.

The Ombudsman warns that special police units establishing public order and peace by the proposed amendments to the Law on Police may have grounds for application of force (rubber bullets, electric paralyzers, pyrotechnic and explosive materials) that would adversely affect the constitutional and legal rights of citizens to peaceful protest and public expression of thought and faith.

At the same time, the amendments to the Law would enable the use of the new means of force without specifically established rules on actions and without clearly defined procedure, as to when and under which conditions they may be applied. If this issue remains open in respect of the application or determination of the proceedings on the number, duration and intensity of the electric discharge, which should be limited to a safe level, it can come to abuse of the means of force, about which the Committee for the Prevention of Torture of the Council of Europe warns. It is especially important that the law determines only in which cases forceful means such as rubber bullets or electric paralyzers can be used. The current amendments envisage applying thereof in order to restore public order and peace to a greater extent, and international standards require the issue to be settled solely and exclusively when there is a real and immediate threat to life or risk of occurrence of serious injuries. According to the Committee for Prevention of Torture, the use of such weapons only for observance of the order is considered unacceptable.

Moreover, these means of force can present a risk to the health and life of the persons on whom they are applied, that is, they cause acute pain. If the law does not provide for medical care for the persons on whom the means of force were used, and first aid training for officials, the use of these means may be unsafe and lead to serious damage to the health and lives of people.

The action of the Ministry on establishing centres and mobile teams for prevention and co-operation with citizens at the local level is welcomed, since preventive measures will increase the confidence of citizens in the activities of the police and other authorities of the Ministry of Interior as their service that quickly and effectively handles their applications.

## CONCLUSIONS

Insubstantial answers are still submitted to the Ombudsman regarding the (non) exercising of police authorisations and their abuse, which leaves room for doubt about the objectivity of the police procedure.

Delayed and inefficient action of police officers on citizens' reports for protection of their life, safety and property.

In certain organizational units (police stations) police officers still do not act in line with the law and bylaws in the application of their legal authorisations and not rarely applied excessive force on citizens.

The imprecise provisions of the Law on Offenses against Public Order and Peace lead to excessively frequent use of the payment orders as a means of offense punishment imposed on citizens by the police officers.

The draft amendments to the Law on Police in the area of force means lack specifically defined rules on actions and clearly defined procedure, as to when and under what conditions they may be applied.

## RECOMMENDATIONS

The Ministry of Interior and its organizational units should establish a timely and quality cooperation with the Ombudsman as a control mechanism, in order to achieve effective protection of the rights and freedoms of citizens.

Taking timely measures and activities on reports submitted by citizens, as well as their timely information on measures or activities undertaken within the Ministry.

Police officers should act in accordance with the law regarding the application of their authorisations, and reports on excessive force should be properly investigated and processed.

The Law on Offenses against Public Order and Peace to be harmonised with the Law on Offences, in order to avoid possible selective actions of uniformed police officers and compliance with the principles for determining the responsibility of citizens in the appropriate criminal procedure.

Finalizing the matter of use of force means with clearly defined procedures and rules, duration and intensity of use, limit when they may be used, as well as precaution and health protection measures.

## CIVIL STATES AND OTHER INTERNAL AFFAIRS

The degree of realization of status rights is an indication of the legal security of citizens in the legal system and indicator as to what extent the state fulfils its obligations towards the citizens in the area of civil states.

The states in this area during the reporting year also indicate delay of procedures for realization of rights relating to the regulation of citizenship, residence or stay, issuing personal documents (passports, identity cards, birth certificates) seizure of items and other rights in the scope of this administrative area.

Hence, the general conclusion in this period is that even though the performance of the authorities that decide regarding the status rights of citizens has improved, however, due to the lack of coordination and untimely mutual cooperation it comes to delays in the proceedings, which results in delayed realization of the rights of citizens in this area.

In particular, in the segment relating to the admission of requests and the acquisition of



citizenship of the Republic of Macedonia, to which half of the complaints in this area refer, the Ombudsman concluded that the situation in delaying such proceedings persists, primarily due to non-effective and uneconomical actions of the competent authority and failure to undertake measures for speeding up the procedure ex officio.

Namely, after the Ombudsman's interventions information is usually received that the case is still pending due to the delayed responses on obtaining opinions that the Government of the Republic of Macedonia, the Ministry of Foreign Affairs (Department for Monitoring of National Priorities), the Administration for Security and Counterintelligence or some other body should submit for the needs of the proceedings before the Citizenship Department.

However, from the insight into the specific case documents and provided facts and evidence, it appears that the Department of Citizenship from the moment of submission of such claims, to the intervention of the Ombudsman ex officio has not taken any further action to update the procedures, although not months, but years have passed ever since.

Therefore, in each of these cases, the Ombudsman addressed all those authorities with a request to update the procedure and the fact is that these services immediately submitted the requested information to the Citizenship Department.

Furthermore, even though the procedures for acquiring citizenship, in not a small number of cases, due to one reason or another, last for a longer period of time in the first instance (sometimes even 5 or more years), at the end the competent authority adopts decisions that only contain one sentence as explanation. It usually states that a certain legal requirement was not fulfilled, and it does not indicate how, in what manner and based on what evidence such a factual state was determined.

In this segment, nothing can justify the situation when even after the intervention of the Ombudsman, the Ministry of Interior, refers the case, along with its writings, to the competence of the Administrative Court or the State Commission. These include the cases that upon administrative proceedings were returned so that it would be acted and decided on them and instead of receiving immediate treatment, the procedure for these cases is further delayed and the indications and expressed legal positions are not respected.

Before the Ombudsman a procedure upon a request for recognition of the right to asylum due to subsidiary protection and determining the identification number of the child of the asylum seekers was initiated.

The recommendation of the Ombudsman to initiate immediate action and to adopt a legal decision, according to the indications and guidelines given in the respective verdict of the Administrative Court, has not been conducted by the Department for Asylum for almost a year, with the explanation that the Administration for Security and Counterintelligence has still not delivered an opinion.

The Ombudsman also acted upon a complaint of persons accommodated in the Reception Centre for Foreigners and was thereby informed that these people are not allowed to exercise their right to asylum and the right to visits and contacts with families, until the proceedings managed by investigation and judicial authorities where they had a capacity of witnesses were in progress. Therefore, the Ombudsman pointed to the need to respect the right of asylum, which is a constitutionally guaranteed right and also a right established in the Universal Declaration of Human Rights.

The Centre for Foreigners, where illegal migrants are accommodated, is overcrowded and it does not fulfil the conditions for accommodation of foreigners. The standards of the European Committee for the Prevention of Torture establish the provision of adequately furnished rooms that need to be clean and well maintained, with sufficient space for the people residing there. International standards require that persons are not accommodated under substandard conditions, and additionally, the living conditions may constitute a reason for the inhuman treatment under Article 3 of the European Convention on Human Rights.

The detention of women and children is particularly worrying, considering the recommendations of international bodies. International rules and standards for vulnerable categories indi-

cate that the detention of these categories of persons in closed type centres should be an exception and be reduced to the shortest possible period. The right to walk and recreation for children is limited and the Centre has not developed specific programmes for work with children, so that they would be able to exercise their right to development and education of children under the Convention on the Rights of Children. Considering the recommendations of international bodies for the protection of children and avoiding their detention in special centres for migrants, aiming at the best interests of children, the residence of the children should be in adequate conditions where they would receive the appropriate social, medical and psychological help. In addition, the Parliamentary Assembly of the Council of Europe by the Resolution 2020 (2014) dated 3 October 2014, recommended preventing of the retention and incarceration of children - illegal migrants and finding alternative models for dwelling that will be aimed at the best interests of children.

As to complaints indicating a violation of the rights of citizens in the procedures for issuing public documents, we can say that in the period covered by this report, their number was relatively small, but still an illustrative example can be separated, where violation of rights was observed.

More specifically, a citizen requested protection, since when they were attempting to obtain a new ID card with altered address of residence, the competent Department in the Ministry of Interior, refused their request several times, and in addition, they were requested to submit an inheritance decision.

The Ombudsman found a violation of the provisions of the Law on Registration of Permanent and Temporary Residence, The Law on ID Card and the Law on General Administrative Procedure, since in each case the provisions of these laws should be obeyed, especially the fundamental principles of the Law on General Administrative Procedure regarding the service orientation of the body to the rights and interests of the parties.

Consequently, the Ombudsman during the proceedings proposed to the competent authority - the Department for Administrative and Monitoring Affairs within the Ministry of the Interior, in this and similar cases to adopt the demands on modification of address and residence and to issue the requested document. If the citizen does not fulfil the basic conditions, a decision should be adopted, on which they would be entitled to an appeal in an administrative dispute. For regulation of the property and legal issues of citizens, as parties in administrative proceedings other authorities are competent, and not the Ministry of Interior.

The Ombudsman also acted on a case concerning the confiscation of objects, where it was also pointed to an unequal treatment by the Department of weapons and explosives and hazardous materials - Veles for Kavadarci.

In this regard, the Ombudsman demanded from the Department for Internal Control and Professional Standards to determine the circumstances whether it has been acted in an identical manner when other people, in the same factual and legal situation as the complainant were concerned.

Following the inspections, it was found that the police officer in this case did not undertake official actions they were obliged to undertake, so that, as a result, actions were taken against this police officer, in accordance with the Collective Agreement of the Ministry of Interior and the competent public prosecutor was informed of the established factual state.

The rest of the complaints referred to the exercise of rights that fall under the competence of the Authority for Keeping of Registers, which cooperates with the Ombudsman and takes timely actions and measures for the realization of citizens' rights.

## CONCLUSIONS

Lack of cooperation and lack of coordination of the state bodies in the procedures for the exercise of status rights, resulting in delay of procedures.

Violation of the provisions of the Law on Registration of Permanent and Temporary Residence, the Law on ID Card and the Law on General Administrative Procedure and lack of service orientation of the body to the realization of the rights and interests of the parties.

Selective approach in taking official actions.

Illegal migrants cannot always exercise their right to asylum, and also their right to visits and contacts with families during their stay in the Centre for Foreigners is restricted.

The Reception Centre for Foreigners does not meet the international standards for accommodation of illegal migrants, and also children and women are retained contrary to international recommendations seeking alternative models of accommodation.

## RECOMMENDATIONS

Undertaking measures to improve the efficiency in the delivery of status rights of citizens and the decisions adopted to contain an explanation on the manner and based on what evidence the body established the actual state and which substantive law was applied.

Improvement of the coordination and cooperation of all authorities involved in procedures in the area of civil status, in order to timely act thereon.

The responsible police officers should take official actions equally in each individual case without any exception.

Respect for the right to asylum, which is a constitutionally guaranteed right, the right to a contact with families and visits of the illegal immigrants accommodated at the Centre for Foreigners, as well as providing adequate accommodation conditions with special emphasis on women and children- illegal migrants.

## PENITENTIARY-CORRECTIONAL AND EDUCATIONAL-CORRECTIONAL INSTITUTIONS

Regarding the protection of the convicted persons and detainees' rights in the reporting year 2014, the Ombudsman acted upon complaints submitted by these persons, as well as upon petitions formed by their own initiative. The number of complaints in the past year was insignificantly reduced in comparison with the previous one, but the problems the convicted and the detainees faced remained the same.

The accommodation conditions in the penitentiary-correctional are lower than the prescribed standards, but still the overcrowded conditions as well as the inadequate health care are the greatest problems.

Although the competent institutions had previously announced taking appropriate measures aimed at reducing the overcrowded prisons and at improving the accommodation capacities, the visits in these institutions and the convicted and detainees' complaints led to incontestable conclusion that the conditions are not improved at all, but on the contrary they are getting worse from one year to another.

The problem with the overcrowding causes many other negative phenomena in the prisons in terms of inadequate accommodation, poor hygiene, poor food quality, poor conditions in the sanitary facilities and so forth, as a result of which the Ombudsman has alerted the competent authorities to take measures in order to reduce the abovementioned problems. In general, the competent authorities have accepted the suggestions given by the Ombudsman, but still only temporary and minor improvements have been made whereas the problems remained the same.

In a certain number of complaints, violation of the right to health care of the convicted and detainees has been noticed, particularly due to lack of necessary medicaments and generally due to poor conditions in prison clinics resulting in inadequate medical treatment. The dysfunction of the admissions departments in these institutions is especially noticeable.

The Ombudsman has found that in the penitentiary-correctional institutions these departments do not function in a proper way and that there are accommodated different groups of detainees, something that is not recommended and also influences on the crime spreading. In the penitentiary-correctional institution "Idrizovo" in the admission department the detainees do not have beds, and in a numerous facilities more than 40 people are accommodated. The accommodation in inadequate conditions, without the necessary means for spending the night and with too many people in one room, is inhumane and degrading treatment, something that is established by the Law of the European Court for Human Rights. Furthermore, in these departments people are housed for more than 3 months, with a proper classification, something that is contrary to the Law on Execution of Sanctions and to the international standards for accommodation.

Problems have also been noted in terms of health care, which is not completely undertaken from the Ministry of Health, as a result of which in some parts of the prisons there is no competent doctor who will be in charge of conducting the health care for detainees and convicts, i.e. the public health institutions have not prepared amendments to acts for internal organization and systematization of job places.

In that respect, the Ombudsman pointed to the need of undertaking measures in order to improve health services as well as regular supply of medicines and basic medical equipment in the prison clinics, with a purpose of providing regular and proper health care of these persons. In case when the necessary conditions for proper medical treatment are not satisfied, the institutions were suggested to send the convicted or remanded person to an appropriate medical institution.

A certain number of complaints, although fewer compared to the previous year, referred to conflicts among the convicted people, particularly within the Penitentiary "Idrizovo". Considering that this questioned the safety of the prisoners themselves as well as the security of the institution generally, the Ombudsman requested separately examining each case and also examining the possibility of transferring the prisoners to other institutions or to another department within the institution. Additionally, related to this problem, the Ombudsman pointed out to the management of the Institution to a consistent application of the Rules on weapons and the manner of executing the tasks of the Security Department within the Penitentiary-correctional and Educational-correctional institution with a request to take all necessary measures for safety of the convicts. These interventions were accepted, thus reducing the tense situations among the prisoners.

This year, the number of complaints related to torture and misbehavior of people from the security service is insignificant, but after the undertaken measures and examination of these cases the quotations of the detainees have not been confirmed.

The prisoners complained about the inability to use the amenities, even though in this case it was not a violation of some right, and although the Ombudsman has no competence to act upon amenities, in order not to create doubt and mistrust among the prisoners about the functioning of the institution and in order to avoid the prisoners to feel that they are in an unequal position compared to other detainees who are allowed to use the amenities, some actions were taken. The convicted people were regularly informed about the information gathered in the course of proceedings on the occasion of the complaints by the Ombudsman, which were related to the structure of convicted persons, the type of the penalty and other data.

During the past year the Ombudsman paid special attention to the detainees, especially for the realization of their rights, taking into account the principle of presumption of innocence. He emphasized the need of taking measures on time for a proper health care of these people, the accommodation and the hygiene conditions in which they are serving detention. This year too, there was a remarkable overcrowded condition in the detention departments in penitentiary institutions, particularly in the Skopje Prison. For these reasons, there was remarkable number of complaints submitted by detainees who complained of accommodation conditions and hygiene, as well as of inadequate health care especially for people with poor health. Complaints of this kind, on the behalf of the detainees were also submitted by their families, in most of which, a transfer of the detainee with worsened health to another room, proper medical treatment and specialist examinations in an appropriate medical institution were requested. The Ombudsman interventions in these cases resulted in a positive outcome, i.e. upon the given suggestions the Health Services submitted medical reports to the competent courts, after which the detainees were taken to a medical examinations made by specialist within proper clinics.

Regarding the poor accommodation conditions in the detention departments, after the recommendations given by the Ombudsman, detainees were moved to other rooms with better conditions, whereupon the management of the institution was advised to undertake immediate measures in order to improve the rooms (the rooms to be whitewashed, the drainage and sanitation network to be improved, etc.).

The Ombudsman considers that this situation is a result of penitentiary-correctional institutions improper and unprofessional management, but also of the incomplete commitment of the management and the other departments, resulting in conflict situations within the institutions, which in this reporting period were particularly visible in the Penitentiary - Educational institution "Tetovo" located in Veles.

The Ombudsman paid special attention to the Penitentiary - Educational institution "Tetovo" because in several occasions in this institution sexual abuse of one to another minor took place and in conversation with them, dissatisfaction was expressed regarding employees' attitude and care.

In the context of the aforementioned the Ombudsman initiated a procedure for determining the liability of the security and socialization service head, which was accepted and then processed.

Also, due to frequent sexual abuse among minors within the Penitentiary-correctional Institution, the Ombudsman conducted a complete insight regarding the general accommodation conditions, as well as regarding the functionality of the institution itself, whereupon he came to certain conclusions regarding the general terms in the Institution, the educational process, the health care for minors and the lack of educational process for them.

Related to these findings, the Ombudsman handed over to the Minister of Justice as well as to the Director of the Directorate for Execution of Sanctions, an Information followed by a proposal for taking measures to overcome these problems in the Correctional Facility Tetovo which operates in Veles.

As in the previous years, it is indisputable that the prison system lacks the financial means, especially in the part of health care of convicted persons and in the supply of means for hygiene, procurement of necessary products for preparation of food, and other essential means, things which emerged as one of the reasons for the poor state within these facilities. Among the other things, another shortcoming of the prison system is the poor management, the poor educational and rehabilitation activities, as well as the insufficient inspections that would be able to identify the real shortcomings and to specify the responsibilities of the officials when dealing with the people deprived of liberty.



## CONCLUSIONS

Accommodation conditions in the correctional facilities are not improved, but they are worse in comparison with the previous period.

Inadequate and unprofessional management with these institutions and incomplete commitment of the management and other bodies leads to conflict situations that endanger the security of the accommodated persons.

The overcrowding remains a major problem in the penitentiaries, which is particularly evident in the Idrizovo Prison and in Skopje Prison.

Adequate health care for prisoners is not provided in accordance with the national legislation as well as with the international standards and it is not conducted continuously by the public health institutions that are responsible for its implementation.

The re-educational process still does not fulfill its total function, both in penitentiaries and in the juvenile correctional facilities, due to lack of professionals within the re-educational centres.

There is a lack of educational process for minors within the Juvenile Correctional Facility Tetovo which operates in Veles. This together with the inadequate housing conditions and the unorganized free time contributes to incomplete minors' rehabilitation.

## RECOMMENDATIONS

Urgent measures for full implementation of the project for reconstruction of penitentiary institutions and dislocation of educational institution for the period until the project for reconstruction of the penitentiary is completely finished, with a purpose of protection and care about juveniles in accordance with the international standards.

Personnel recruitment as well as professional improvement of the employees in these facilities towards more professional treatment of persons in prisons.

Taking measures and actions for the purpose of reducing overcrowding and further improvement of the accommodation conditions, with full respect for the human dignity of the people accommodated in these institutions

Improvement of health services within the institutions by the public health institutions through timely coordination with the Directorate for Execution of Sanctions.

Improvement of the work of the re-education service in order to accomplish the main goal - rehabilitation of the prisoners.

Taking measures for establishing education for the children in the penitentiary Tetovo which functions in Veles, improving the overall health condition of the children and increasing the number of teachers in the Department of Re-socialization for the purposes of ensuring daily presence and continuity in the educational process.

## JUDICIARY

It is undisputed that for the development of the democracy in a society, it is necessary for all participants in the government to act within the powers prescribed by the Constitution and the legislation. In that sense, it is necessary for the judicial authorities, as part of the system of the government, to carry out independent and impartial decisions based on the law, by applying several principles, including the principle of efficiency, openness and transparency.

The Ombudsman, in terms of judicial procedures has limited powers, because according to the Law on Ombudsman, the Ombudsman undertakes activities and measures for protection of unjustified delay of court proceedings or irresponsible work of court services, infringing the principles of independence and independence of the judiciary.

However, despite these limitations, the Ombudsman by taking action on individual complaints of citizens to speed up the proceedings before the courts and other judicial bodies contributes to the realization of the right to trial within a reasonable time. In addition, the Ombudsman applies these powers to the other institutions and bodies that are part of the judicial system of the Republic of Macedonia, public executors, and persons with public powers – lawyers, notaries and executors.

Statistics show that the first instance proceedings last on average several years, which is a violation of the right to trial within a reasonable time.

In most cases, citizens complain of the excessive length of the proceedings before the Administrative Court, also about the civil proceedings, in which the petitioners seek realization and protection of certain property rights or statutory rights and interests, and they least complain about the first instance criminal proceedings.

The number of complaints by citizens indicates that judicial decisions are taken biased by incompetent judges, under pressure and through corruption. In the complaints, the citizens asked the Ombudsman to review the work of the judges and to change the decisions. In these cases, the Ombudsman referred to his competencies defined by the Law on Ombudsman and also advised them to realize their rights before other competent authorities and institutions.

Data from the cases also show that in the reporting year, the number of complaints of citizens on the delayed court proceedings before the courts of second instance increased slightly, and the complaints against the Supreme Court are at the same level as the previous year.

This year the Ombudsman found unjustified delay of proceedings before the Administrative Court of the Republic of Macedonia, due to the inefficient operation of this body because it takes a long time to act upon complaints that raise administrative disputes. In addition, dealing with complaints showed that there was a lack of communication between the Administrative Court and other administrative bodies, whose legal act is challenged by the complaint, and that the court did not get the records by the competent authorities, but also it did not take any measures to solve this problem.

Often, the Administrative Court after dealing with the interventions in reasonable time replied that under court rules the matter will be taken into consideration in the regular procedure, which, in most cases, disabled the citizens from exercising their constitutional and legal rights of trial in reasonable time.

In such cases, the Ombudsman despite intervening before the Administrative Court directly requested the authorities who keep records to submit documentation for further action to the Administrative Court for smooth acting upon lawsuits by citizens.

In order to exercise the right to trial within a reasonable time, the Ombudsman on several occasions advised the complainants to ask the President of the Administrative Court urgent handling of their case or appeal to the Supreme Court of the Republic of Macedonia, which if determines that there was a violation of the principle to trial within a reasonable time, it has the power to award compensation in favor of the citizen.

In terms of protecting the rights of petitioners before the public executor, it is important to note that the Ombudsman in that segment is taking concrete measures and activities. Namely, during 2014, the number of complaints requesting protection to delay the proceedings before the public executor has increased, for which the Ombudsman took appropriate measures.

Often, the citizens turn and look for interventions by the Ombudsman, because of the incorrect behavior of court administration. Usually, they note that the judicial services had incorrect and inappropriate attitude towards them as parties in the proceedings, and also complained about the poor administration of cases, a practice which is contrary to the provisions prescribed by court rules.

Often, citizens seek and receive the Ombudsman legal advice about where and which judi-

cial authority can help them exercise certain rights, they are interested in the course of proceedings, the periods in which they can initiate a complaint procedure and other issues related to judicial protection. In that respect, it is undisputable that with the advice given, the Ombudsman contributes to the promotion and realization of citizens' rights and allows complainants to obtain adequate and effective judicial protection.

The number of complaints of citizens who complain about the work of the executors or irregularities in the procedures of execution continues to increase.

As a result of many years acting upon the complaints of citizens who complain of irregularities in the procedures, the Ombudsman concluded that the Law on Enforcement has numerous drawbacks. The assessment of the Ombudsman is that there is indefiniteness and imprecision, especially in the rules governing the enforcement on demands upon bank account, which creates blocking of bank accounts of debtors.

In connection with this problem, the Ombudsman considers it necessary in the Law on Enforcement to implement an obligation for the executor before issuing the order that blocked the transaction account of the debtor to give notice about the claim or to call the debtor so he/she can pay the recognized debt using other means of execution.

We can see that in most cases, as creditors in the process of execution, public companies, joint stock companies with state capital and telephone operators appear, seeking payment of debts of citizens for certain utilities, telecommunication and other services. On the other hand, the debtors in the procedures of execution often claimed that they were not informed of the existence of the debt, indicated the statute of limitations, and in some cases stated that the orders for execution included claims that were already paid.

In such cases, the Ombudsman took coordinated measures towards creditors, service providers and against executors who carry out the procedure of execution.

In this regard, the Ombudsman verified the facts and stated that if the allegations of the complaints are well founded, the creditors were demanded to withdraw the application for enforced execution, if indeed the debt was paid, or to make adjustments to the amount of debt, and asked the executors to stop the procedure of execution.

Acting on complaints, the Ombudsman found that blocking the transaction accounts in payment operations is an issue that citizens continue to face.

Namely, the executors in many cases do not submit orders for execution to debtors, so the citizens found out about the existence of the claim and the fact that against them there are initiated proceedings for enforcement when trying to raise funds from bank accounts.

In these cases, the Ombudsman asked the executors to unblock the bank accounts of debtors, and advised the citizens to make direct contact with the executors in order to agree on the manner of payment of the claim. In most cases, the executors acted on the interventions of the Ombudsman.

There are concerns about the number of complaints in which the citizens complained about the implementation of forced execution upon the income acquired from social assistance, legal support or temporary unemployment, which by law enforcement are exempted from enforced collection. Citizens stated that although they submitted evidence that they are recipients of aid to the executors, the execution upon these funds continues despite the fact that the Law on Execution stipulates prohibition of execution upon these incomes.

The Ombudsman in these cases submitted indications to the executors to stop the enforcement of the funds which under the Law on Enforcement are exempt, because such treatment violates the existential rights of the citizens. After the Ombudsman's indications, most of the executors stopped the forced collection of debts.

Some citizens submitted complaints which alleged that the executors do not respect legal limits; enforcement is carried out up to 1/3 of the monthly income from salary or pension of the debtor. An obvious problem was that several employees against the same debtor in about the same time issued a writ of execution by keeping a third of the salary or pension. This situation occurred because the executors do not have a database that will inform if towards some debtors another executor has filed proceedings for enforcement and whether based on another writ of

execution a part of the pension or salary will be stopped. The Ombudsman asked to comply with the order when conducting the enforcement, so that the executors had put on hold the order issued by a later date.

In the reporting year, there was a slight increase in the number of complaints concerning the operation of persons with public authorities or notaries. Citizens in most cases state that they were not delivered with decisions on approval of execution based on an authentic document, which made them miss the legal deadline for filing an objection. The Ombudsman advised the citizens through the notary to the competent court to submit a proposal to abolish the validity and enforceability of the decision and if the court decides positively, to continue the procedure of proving, by submitting the appropriate complaint decisions.

The Ombudsman concluded that the slow or more difficult execution of human rights continues when they are violated by lawyers. This impression has been intensified by the fact that the Bar Association of the Republic of Macedonia untimely acts upon the Ombudsman, and the decisions of the Disciplinary Committee of the Chamber, as a rule, are biased in favor of its members.

## CONCLUSIONS

The principle of hearings in reasonable time is still not respected, which is why citizens are facing undue delay of judicial proceedings, especially before the Administrative Court and the civil courts of first instance. This year the citizens perception persists that judicial decisions are made biased by incompetent judges and by pressure.

Due to the lack of communication between the Administrative Court and the state administration, the Administrative Court often do not get the necessary papers, and the court does not take any measures to remedy this situation.

The large number of complaints submitted to the Ombudsman where citizens, inter alia, complain of the excessive duration of proceedings before the Administrative Court of the Republic of Macedonia, is due to the inefficient operation of the court which delays the acting on complaints that raise administrative disputes.

The Law on Execution has numerous shortcomings, particularly the provisions governing the execution of a claim on a bank account, which completely blocks the debtors' bank accounts.

The execution over the legally prescribed maximum and execution on the assets acquired from social assistance, legal support or temporary unemployment continues, despite the fact that the Law on Execution prescribes their limitation or exclusion.

In many cases, the executors did not supply the orders for execution to the debtors, so the citizens found out about the existence of the claim and the fact that there is a procedure of execution against them, when they tried to raise funds from bank accounts.

## RECOMMENDATIONS

To take concrete measures for consistent application of the principle of trial within a reasonable time, measures for professional or personnel and financial equipping of courts and public prosecutors' offices, thereby providing the citizens with facilitated access to justice;

Administrative Court is to improve the communication with the public administration in order to be timely submitted with the necessary papers, acts and evidence so it can speed up the decision-making processes within the legal timeframe.

In order to improve the efficiency of the activities of the Administrative Court, it is necessary for it to act on complaints within the legal timeframe, without undue delay.

There is a need for amendment to the Law on Execution, in particular to the provisions governing the enforcement upon claims on bank account.

The executors should take into account the restrictions and prohibitions provided by the Law on Execution. Effective enforcement is not to be implemented by overcoming the legally prescribed maximum of 1/3 of salary or pension and not to perform collection of funds realized through social assistance, legal support or temporary unemployment.

The executors should promptly send notifications to debtors that against them there is a procedure of execution in order to avoid the situation in which the citizens find out about the claim when trying to raise funds from bank accounts.



## VOTING RIGHTS

The right to vote is fundamental to democratic society, and the Constitution of the Republic of Macedonia includes the free and direct democratic elections as fundamental values. In order to protect this fundamental right of the citizens, the Ombudsman in 2014, which was a year of elections, continuously followed this process in 2014 before the elections, during the election campaign, on the day of the elections and after the elections.

In this regard, before the election campaign and starting from the importance of this process, the Ombudsman urged all stakeholders in the electoral process to keep in mind the best interests of the children, i.e. to refrain from their involvement in election campaigns and to protect them from political and ideological manipulations.

Furthermore, the Ombudsman has established a free telephone line where citizens were able to report any violation of the right to vote and to get advice and legal assistance. Since the start of the election campaign, this telephone line operated every day, from 08.00 hrs. to 16.00 hrs., and the citizens' reports were handled immediately after the received call or the recorded message. Consequently, on the Election day, all seven offices of the Ombudsman were opened for the citizens in Skopje, Bitola, Kichevo, Kumanovo, Strumica, Tetovo and Shtip in order to assist in the realization and protection of their voting rights.

Furthermore, the Ombudsman also undertook actions to establish the status of exercising these rights for certain specific categories of persons, mainly voters who on the Election day were serving prison sentence or were in custody or house arrest and the category of "disabled or a sick person".

Most of the calls pertaining to the protection of the right to vote were anonymous, and most of them were related to the deficiencies in voters' lists. Certain people were in the voters list, which was confirmed by the application of the State Election Commission (SEC) for e-voters list, as well as by the inspection of the Ombudsman, but they were not in the voters list at the polling station, and therefore they were not able to exercise their right to vote.

According to the election authorities the problem has emerged because the number of polling stations for these elections was increased and the citizens were not able to find their name in the polling stations in which they had previously voted, but they were transferred to another polling station. SEC publicly announced the polling stations and their coverage in daily newspapers, so the citizens were able to obtain the relevant information in a timely manner.

The Ombudsman concluded that these people were not able to vote due to SEC's fault, especially taking into consideration the legal obligation for timely and fully information of the citizens about such situation and the obligation to continually undertake actions for registration, addition or deletion in the voters list, among other things, through a direct inspection.

Another problem detected by the Ombudsman, which prevented the exercise of the voting right of some citizens is that the citizens were listed only on one of the lists, the one for the presidential elections, and not in the one for parliamentary elections or they were listed in one polling station for the presidential elections and in a completely different polling station for the parliamentary elections.

For the Ombudsman, such situation in which one voter is located in two different polling stations, i.e. in one polling station (for presidential elections) and in another polling station (for parliamentary elections), as a result of which such voter can only vote for one of the elections (as SEC indicates), is impermissible and constitutes a violation of the constitutionally guaranteed right to vote.

The Directorate for Execution of Sanctions, as a body responsible for sanctions, has not established a system, i.e. it does not keep records of persons serving a prison sentence or of detention, but it receives the data from the penitentiary and the correctional institutions instead.

Given the time period from the submission of the data until the voting day (no later than

30 days prior to elections), in accordance with Article 44, paragraph 1 of the Electoral Code, the Ombudsman found that certain people might not realize in practice their right to vote, such as the case with people who have been sentenced to detention and people who start with the execution of the sentence from the submission of the data until the day of voting.

The abovementioned also applies to people whose detention is abolished at the time, to convicts who are released from arbitrary jail (probation, parole, retrial etc.), to persons who in this period have been moved or progressed from one to another penitentiary or correctional facility (according to the possibilities provided by the Law on Execution of Sanctions).

Other persons that could not vote as well were convicted or detained persons without valid (biometric) identity cards or passports, and in the penitentiary and correctional institutions no measures have been taken in order to provide the necessary documentation to those without such documents.

Monitoring the situation of realization of the right to vote of the "disabled or ill person" category, the Ombudsman found that SEC before the beginning of voting, in short period of time, with an internal Act - Guideline, determines who can be considered disabled or ill person, prescribes the way of voting, determines the conditions they should meet, or which and what type of evidence should be submitted to election authorities.

According to the Ombudsman, in this manner shortly before the voting itself, the exercise of the right to vote is unnecessarily complicated to this category of citizens, because the Electoral Code is very clear and explains that if such category of voters wants to vote, it is required only to notify the Municipal Election Commission, no later than seven days before the election day.

The practice shows that SEC has an unequal treatment for this category of voters, because they do not allow their full coverage, that is, that persons belonging to this category would be able to vote in the place where they are staying.

Namely, persons who are residents in nursing homes, rehabilitation centers, psychiatric institutions, clinical centers, as well as persons on longer treatment in adequate medical facilities, were not able to vote in the place where they stay.

The Ombudsman has also found that SEC, in certain cases of inactivity regarding its competence in a direct manner, has also prevented the realization of the right to vote of persons engaged in elected bodies.

Thus, the Ombudsman acted on a case when certain members of the election bodies could not exercise their right to vote since they were told from the Municipal Election Commission and the SEC to be at the polls from the beginning to the end of the voting.

In another case, SEC has not acted upon the Ombudsman's intervention to overcome the situation in which, immediately next to the polling station or voting facility, headquarters of a political party were located. Again, not respecting the Electoral Code, that is, Article 172, pursuant to which "the voting room must not be determined in a facility where there are offices of a political party or a facility used for activities of a political party", SEC has given a formal response that another facility for voting could not have been designated considering that the description of the polling stations has already been determined and published in daily newspapers. According to SEC, "the mentioned headquarters will be closed on the days of pre-election silence and the election day.

Other cases were noted when due to irresponsible attitude of certain managers in public enterprises, institutions or other private entities, the realization of this right was prevented and the employees who were engaged in the period from 07.00 to 19.00 would not have exercised their right to vote if the Ombudsman had not intervened.

Regarding the legal solutions contained in the existing legal framework, several provisions in the Electoral Code determine that SEC with its own internal acts (guidelines, indications etc.) shall not only standardize certain issues but regulate them completely, which leads to voluntarism, because the achieving of a constitutionally guaranteed right depends on the assessments of the members of the SEC.

An example of this is the issue of how to exercise the right to vote of the categories such as "ill or disabled persons", people with disabilities, prisoners and their coverage (all persons of

these categories could not exercise their right to vote due to administrative obstacles), then for the election of municipal election commissions and polling boards, their training etc.

Also, in not a small number of cases the SEC has interpreted the provisions of the Electoral Code according to its estimates, while for the last election cycle, just before the second round of voting SEC has given an indication to the voters to have their thumb marked on the left hand, although the legal solution is to mark the thumb on the right hand.

In terms of the marking with ink, the reaction of voters is justified, because it is inappropriate, it violates the dignity of the voters and it is improper for the achieved level of development of the Macedonian society. According to the Ombudsman, this practice should be immediately abandoned.

According to the Ombudsman, it is important that citizens are aware of their right to vote, how to use their right and how to protect themselves in cases where the right to vote is disturbed or damaged.

The fact that no citizen who requested help from the Ombudsman had previously made an insight in the voters list, nor has used a remedy to protect their right to vote, confirms that it is necessary to undertake measures to inform and educate the citizens as voters, but also as members of electoral bodies.

Otherwise, although the voters list becomes publicly available and the voters may undertake action themselves and check whether they are on the voters list or not, without being followed by activities for their continuous education, the situation will not change in a positive direction, nor will the identified weaknesses present in several election cycles be overcome.

## CONCLUSIONS

Due to inaccurate and inconsistent legislation, particularly because of the lack of coordination and cooperation between the competent authorities, the voters list and its transcripts had differences, so that citizens although having met all legal requirements were not able to exercise their right to vote.

As its line of duty, SEC does not perform timely and continuous recording, adding or deleting, according to data from registers, records of residence, and other official records, direct inspections, nor it implements continuous action for consistent informing and educating voters about their rights, provided by the Electoral Code.

Irregularities in the work of the electoral boards due to reading the voter's name and surname out loud, not giving notice of the voters for change of the polling place, not informing the voters that they should simultaneously vote for presidential and parliamentary elections when coming at the polling station, not sealing the ballots and not marking all voters with ink, etc.

Persons of the categories "ill or disabled", persons with disabilities and prisoners could not exercise their right to vote due to administrative obstacles of different nature and unequal treatment of SEC.

There are several provisions in the Electoral Code that define that SEC with its internal acts (guidelines, indications, etc.), shall determine the rights of citizens in the electoral process for which he Ombudsman considers that they should be subject to legal regulation.

## RECOMMENDATIONS

The authorities should continuously undertake measures in order to remove the formal deficiencies of the legislation as well as deficiencies in the practical implementation of the existing legislation.

SEC to register, add and delete data timely and continuously in the voters list, so that the data in the voters list will inevitably match the data in the single voters list, as well as to take care of the legality of the electoral bodies' performance.

Full coverage and equal treatment in the implementation of the right to vote of the categories "ill or disabled persons", "persons with disabilities" as well as overcoming the administrative obstacles for smooth vote of prisoners and detainees.

To initiate amendments to the election legislation aiming to avoid possibilities to define the citizens' rights and responsibilities in the electoral process with bylaws.

## NON-DISCRIMINATION

The realization of human rights and respecting the principle of non-discrimination represent a fundamental value of the Macedonian society, which because of its plurality on different grounds is suitable for unequal treatment of citizens.

The reasons for the occurrence of discrimination are in the still present prejudice towards certain social groups or individuals and such behaviors that are sometimes direct but more often indirect have the objective to make divisions and unequal treatment of citizens, on the basis of different ethnicity, language, gender, belonging to a marginalized group, social background, religious or political beliefs ... or different actions towards individuals and certain groups in the same or similar situations.

In this report year, the number of cases of non-discrimination is approximately at the same level as the previous year, and the most common cases are those of discrimination on ethnic grounds.

The Ombudsman pointed to the institutions under their competence, to the prohibition of all forms of discrimination, referring to the domestic and international regulations that prohibit practicing of discrimination. The Ombudsman's interventions were accepted in most cases.

However, none of the recommendations of the Ombudsman has been accepted in cases in which citizens complained about discrimination on ethnic grounds through restriction of citizens' freedom of movement and their return from the state border. There is a small number of complaints in which the procedure was stopped due to initiation of litigation.

In terms of discrimination on ethnic grounds, we need to emphasize that this year a lot of complaints were submitted by citizens belonging to the Roma and Albanian community, who having to return from the borders asked the Ombudsman for protection. The citizens believe that not being allowed to cross the border or being returned when attempting to travel with an identity card is unfounded and that they are returned only due to their ethnicity.

Acting upon these complaints, the Ombudsman has requested information from the competent services of the Ministry of Interior for each case, by pointing out the prohibition of discrimination on any grounds, as well as the prohibition or restriction of citizens' freedom of movement.

In no case did the Ministry of Interior confirm that there was ungrounded returning of citizens, but it also did not convince the Ombudsman that acting in that manner it does not discriminate.

On the contrary, the Deputy of the Ombudsman, who was going on a business trip, faced the same problem when she was questioned about the reasons for traveling outside the Republic of Macedonia by the passport control at the airport "Alexander the Great" in Skopje, which, on the other hand, was not the case with the associate of the Deputy who was allowed an unimpeded departure from the Republic of Macedonia.

The above-stated not only justified the Ombudsman's position that the treatment of the Roma and Albanian community and the limitation of their right to freedom of movement has elements of discrimination, but it also confirmed that the Ministry of Interior limits the citizens' right to freedom of movement because they belong to the Roma and Albanian community, that is, it discriminates them.

Considering this problem in function of a consistent implementation of the regulations, the Ombudsman has submitted a special information to the Ministry of Interior and the Government of the Republic of Macedonia, in which it pointed to the obligation of the mandatory implementation of the domestic and international standards, regarding the guarantee of the right to freedom of movement and the prohibition of any discrimination on any grounds, with a commitment to update the legislation that will prevent arbitrary decisions by oral travel ban and will provide greater legal security of citizens for protecting their rights.



In this reporting year, the Ombudsman received complaints from non-governmental organizations in which they asked for a clarification regarding the amendments to the Law on Social Protection, establishing a monetary limit for obtaining compensation for assistance and care by another person and for implementing the right to allowance for blindness, mobility and deafness, that is, the possibility of finding discriminatory elements in these legislative changes.

In these cases, despite the provision of detailed explanations from the Ministry of Labor and Social Policy which were submitted to non-governmental organizations and the commitment to adopt a bylaw that would provide implementation of the regulations, the Ombudsman pointed out that they act upon each complaint where the legally guaranteed right of a citizen would be denied.

In another case for discrimination in the area of health care, initiated by notification of a non-governmental organization, the Ombudsman found that the rights of a patient has been violated in one health care institution, where the patient has come for appendicitis surgery, and HIV testing has been conducted without their consent.

The Ombudsman has submitted a recommendation to the health care facility, concluding that a discrimination based on health care has been made, wherein they recommended a consistent implementation of the provisions of Article 25 in conjunction with Article 19, paragraph 3 of the Law on protection of the population from infectious diseases, pursuant to which the reporting of the HIV infection disease is anonymous, then Article 3 of the Rulebook on the manner, form and content of reporting forms for contagious diseases and microbiologically proven stakeholders, where it is provided that, among other things, the diagnosis of the disease is to be encrypted under existing international statistical classification of diseases and related health problems. The Ombudsman has also pointed to Article 14, paragraph 2 of the Law on Protection of Patients' Rights, pursuant to which the patient has the right to accept or refuse a medical intervention by signing a statement. The action upon this case resulted in accepting the given recommendation.

The Ombudsman has also received complaints from citizens demanding intervention towards the institutions where they work, in order to implement the provisions of the Law on Protection from harassment in the workplace. After actions were undertaken and the actual situation was established, the Ombudsman suggested implementing the provisions of the afore-stated Law and implementing a procedure for mediation and protection against harassment. These suggestions were accepted and the procedure, which was laid down in the Law on protection from harassment in the workplace, was conducted.

In this context, acting upon a complaint in which the applicant complained about harassment in the workplace and discrimination on political and health grounds in the Public Revenue Office, Regional Office Prilep, the Ombudsman has undertaken actions, carried out an inspection and talked directly with senior officials. The Ombudsman has also taken photos in the work premises of the complainant, after which it was concluded that no basic working conditions are provided, and that the complainant is in a less favourable position than other employees, since he was not given any tasks.

The Ombudsman indicated to the Managing Director that the complainant should have adequate conditions for work and be involved in the working process, but given his deteriorating health condition the Ombudsman required this person to be reassigned to a job position in his place of residence, and not to commute every day from one to another city. Acting upon the recommendation, the Managing Director has adopted an act for the reassignment of the complainant to a work position in the place of residence.

Within the work not related to cases, Ombudsman's representatives participated in a working group for preparation of the National Action Plan for implementing the Law on Protection and Prevention against Discrimination, wherein, there was an active contribution to specific objections to its institutional adjustment and implementation of the activities arising from it. Furthermore, during 2014, the Ombudsman's representatives participated in the preparation of the Analysis of the inadequacies of the Law on Prevention and Protection against Discrimination, which was prepared by the Institute of Human Rights.

Among other things, it is important to mention the participation of Ombudsman's representatives in several discussions, seminars and workshops which discussed the promotion of the

human freedom and rights at the national level, as well as harmonization of the national legislation and international acts that regulates this area.

The principle of equality between women and men is guaranteed by the Constitution and the laws of the Republic of Macedonia, by which the state is bound to establish policies through institutions on equal opportunities and non-discrimination on the grounds of gender.

Considering this obligation, this reporting year, as well, despite the research for perceiving the state of implementation of the principle of equitable representation of communities, the Ombudsman conducted a parallel research on gender and educational structure of employees in 1077 institutions, to which 1060 responded. The institutions were asked to submit a table display of the data in terms of gender (total number of elected and nominated officials, total number of managerial and non-managerial job positions), as well as a detailed presentation of the employees' education level by gender and their deployment to managerial or non-managerial job positions in terms of their education level (higher education, post-secondary education, secondary education and primary education).

**Table no.1** Gender representation according to job position and education

	Total employees	LEVEL OF EDUCATION															
		Employees by gender				Higher education				Post-secondary education				Secondary education			
		M	%	F	%	M	%	F	%	M	%	F	%	M	%	F	%
Elected or nominated persons	2388	1318	55,19	1070	44,81	1300	54,44	1070	44,81	10	0,42			8	0,34		
Managerial job positions	8766	4949	56,46	3817	43,54	4033	46,01	3098	35,34	171	1,95	147	1,68	736	8,40	561	6,4
Non-managerial job positions	97694	50572	51,77	47122	48,23	16526	16,92	23860	24,42	2738	2,8	3429	3,51	24166	24,74	16290	16,67
Employees at the authority	108848	56839	52,22	52009	47,78	21859	20,08	28028	25,75	2919	2,68	3576	3,29	24910	22,89	16851	15,48
<b>TOTAL</b>			108848				49887				6495			41761			10705

The analysis of the submitted data shows that out of 108 848 employees in the institutions, 56,839 are men (52.22%) and 52,009 (47.78%) are women. In terms of elected and nominated officials, it is concluded that the representation of women in the institutions is 1.070 (0.98%), while the representation of men is 1318 (1.21%). The ratio between women and men at managerial job positions in the institutions is 3.817 (3.51%) women, while the representation of men is 4949 (4.55%). The ratio at non-managerial job positions is quite similar where the representation of women is 47,122 (43.29%), while the representation of men is 50.572 (46.46%).

The total number of male and female employees in the administration is 108.848 employees. 49,887 (45.83%) of them have a higher education, 6,495 (5.97%) of them have post-secondary education, 41,761 (38.37%) of them have a secondary education and 10,705 (9.83%) have a primary education.

The data analysis shows that 28.028 (56.18%) out of 49.887 administration employees are women with higher education, while 21,859 (43.82%) are men. Out of them, in the category of elected and nominated officials 1,070 (2.14%) are women, while 1,300 (2.61%) are men. At the managerial job positions, 3,098 (6.21%) are women and 4,033 (8.08%) are men, while at the non-managerial job positions, 23,860 (47.83%) are women, and 16,526 (33.13%) are men.

The Ombudsman concluded that this year the number of women employed in the administration is lower compared to the number of men, which is the case at managerial job positions, as well. There is a greater number of women employees in the administration with higher education compared to men, but men are more numerous than women as elected and nominated officials and at managerial job positions.

3,576 (55.06%) out of 6.495 employees with post-secondary education are women, and 2,919 (44.94%) are men. Out of them, 10 (0.15%) in the elected and nominated officials are men, and there are no women. At managerial job positions, 147 (2.26%) are women and 171 (2.63%) are men. At non-managerial job positions, 3,429 (52.79%) are women, and 2,738 (42.16%) are men.

Based on the given data, the Ombudsman concluded that there are more female admin-

istration employees with post-secondary education than men, and that there is no woman as elected or nominated official.

16,851 (40.35%) out of 41,761 administration employees are women with secondary education, and 24,910 (59.65%) are men. Out of them, 561 (1.34%) are women at managerial job positions, and 736 (1.76%) are men, while at non-managerial positions, 16,290 (39.01%) are women and 24,166 (57.87%) are men.

The data analysis on women-men ratio with secondary education shows that the members of the male gender are significantly more numerous compared to the members of the female gender.

The situation with the gender representation in terms of primary education is quite similar. There are 10,705 administration employees with primary education, out of which 3,428 (32.02%) are women, and 7,277 (67.98%) are men.

Considering this situation, this reporting year as well, the Ombudsman concluded that in relation to the total number of employees and level of education there is a gender inequality, and indicated that there is a need to undertake measures and activities in order to respect the principle of equality between men and women, and to have an appropriate allocation of jobs on the basis of gender and level of education, especially at the managerial job positions.

## CONCLUSIONS

There is unequal treatment of citizens belonging to different ethnic communities in the society, which signals the existence of discrimination on ethnic grounds.

Roma and Albanians are not usually allowed to depart from the Republic of Macedonia and they are returned from the border, which limits their right to free movement.

The required level of tolerance has not yet been established, there are prejudice and barriers in society, in terms of the overall functioning of the principle of non-discrimination.

The current regulations for the border control do not provide legal security and possibility of legal protection of citizens when the border officer in their oral decision does not permit crossing the border.

## RECOMMENDATIONS

The diversity of citizens including on the basis of ethnicity should be valued, and in that regard, measures for consistent implementation of standards of equality, tolerance and prevention of discrimination should be taken.

To respect the right to free movement of all citizens equally and the limitations to be in accordance with the Constitution and international agreements.

Undertaking activities for raising the awareness of the non-discrimination principle through educational content and workshops.

Upgrading of regulations in order to create legal requirements for adopting a reasoned decision in writing on the illegal exit from the country, which will provide a legal security and further protection of the citizens' rights.

## ADEQUATE AND EQUITABLE REPRESENTATION

The principle of adequate and equitable representation of citizens belonging to all communities is guaranteed by the Constitution of the Republic of Macedonia and is a fundamental value of the constitutional order.

Following the implementation of this principle has an essential meaning for building a democratic society of equal citizens, having the same rights, regardless of the community they belong to, so that despite the real image of the state of representation, the implementation of this principle is intended to show the ratio of exercise of the rights of communities and their sense of belonging to institutions.

In order to monitor the implementation of the principle of adequate and equitable representation of all community members, this year, as well, the Ombudsman, in accordance with their constitutional competence, conducted a survey on the extent of implementation of this principle.

This reporting year the Ombudsman, with previously prepared tables, that unlike previous years were supplemented by another category of employees (elected or nominated persons), addressed the state administration bodies, autonomous bodies and organizations, local self-government units, health care, cultural and educational institutions, courts and prosecutors' offices and other facilities and services, to which they competently act. Written requests with prepared tables to be completed were distributed to 1077 institutions, out of which 1062 institutions provided data, while 15 institutions, despite the written interventions and telephone contacts as well as information submitted to the Government of the Republic of Macedonia, did not provide answers. Therefore, no data was provided by the Ministry of Health, the National Agency for Nuclear Technology, the Clinic for Digestive Surgery, the Public Prosecutor's Office for Organized Crime and Corruption, the State Inspectorate for Construction and Urban Development and several educational and cultural institutions, which impeded the work of the Ombudsman. For the institutions that have not responded to the requests of the Ombudsman, the entered data is not updated and presents the state of the previous year.

### Summary tabular overview for 2014

				ADEQUATE AND EQUITABLE REPRESENTATION															
				Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other	
				Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	
Cabinet of the President of RM - Expert Service	Elected or nominated persons	3	3	100,0															
	Managerial job positions	13	11	84,6	2	15,4													
	Non-managerial job positions	28	25	89,3			1	3,6					2	7,1					
	Employees at the authority	44	39	88,6	2	4,5	1	2,3					2	4,5					
Parliament of RM - Expert Service	Elected or nominated persons	4	3	75,0	1	25,0													
	Managerial job positions	53	39	73,6	13	24,5	1	1,9											
	Non-managerial job positions	224	159	71,0	56	25,0	3	1,3			4	1,8			2	0,9			
	Employees at the authority	281	201	71,5	70	24,9	4	1,4			4	1,4			2	0,7			
The Ombudsman	Elected or nominated persons	8	3	37,5	3	37,5			1	12,5			1	12,5					
	Managerial job positions	23	16	69,6	4	17,4					1	4,3	1	4,3	1	4,3			
	Non-managerial job positions	44	12	27,3	24	54,5	1	2,3	2	4,5	2	4,5	1	2,3	1	2,3	1	2,3	
	Employees at the authority	75	31	41,3	31	41,3	1	1,3	3	4,0	3	4,0	3	4,0	2	2,7	1	1,3	
State Commission for Prevention from Corruption	Elected or nominated persons	7	5	71,4	2	28,6													
	Managerial job positions	4	4	100,0															
	Non-managerial job positions	14	8	57,1	3	21,4					1	7,1	1	7,1			1	7,1	
	Employees at the authority	25	17	68,0	5	20,0					1	4,0	1	4,0			1	4,0	
Constitutional Court of RM	Elected or nominated persons	9	6	66,7	2	22,2	1	11,1											
	Managerial job positions	9	8	88,9							1	11,1							
	Non-managerial job positions	7	6	85,7	1	14,3													
	Employees at the authority	25	20	80,0	3	12,0	1	4,0			1	4,0							

		ADEQUATE AND EQUITABLE REPRESENTATION																	
				Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other	
				Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%		
Judicial Council of RM	Elected or nominated persons	13	7	53,8	4	30,8							2	15,4					
	Managerial job positions	15	13	86,7							1	6,7					1	6,7	
	Non-managerial job positions	18	15	83,3	1	5,6	1	5,6			1	5,6							
	Employees at the authority	46	35	76,1	5	10,9	1	2,2			2	4,3	2	4,3			1	2,2	
Higher Administrative Court	Elected or nominated persons	10	10	100,0															
	Managerial job positions	1	1	100,0															
	Non-managerial job positions	13	10	76,9	3	23,1													
	Employees at the authority	24	21	87,5	3	12,5													
Administrative Court of RM	Elected or nominated persons	29	19	65,5	8	27,6	1	3,4							1	3,4			
	Managerial job positions	2	2	100,0															
	Non-managerial job positions	57	45	78,9	9	15,8	3	5,3											
	Employees at the authority	88	66	75,0	17	19,3	4	4,5							1	1,1			
Supreme Court of RM	Elected or nominated persons	20	14	70,0	6	30,0													
	Managerial job positions	8	6	75,0							1	12,5	1	12,5					
	Non-managerial job positions	49	46	93,9	1	2,0					2	4,1							
	Employees at the authority	77	66	85,7	7	9,1					3	3,9	1	1,3					
Public Prosecution of RM	Elected or nominated persons	10	7	70,0	3	30,0													
	Managerial job positions	6	5	83,3									1	16,7					
	Non-managerial job positions	24	18	75,0	4	16,7			1	4,2	1	4,2		0,0					
	Employees at the authority	40	30	75,0	7	17,5	0	0,0	1	2,5	1	2,5	1	2,5					
State Attorney of RM	Elected or nominated persons	34	32	94,1	2	5,9													
	Managerial job positions	4	4	100,0															
	Non-managerial job positions	78	56	71,8	17	21,8	1	1,3			2	2,6			2	2,6			
	Employees at the authority	116	92	79,3	19	16,4	1	0,9			2	1,7			2	1,7			
Public Prosecutors Council	Elected or nominated persons	10	6	60,0	2	20,0					2	20,0							
	Managerial job positions	1	1	100,0															
	Non-managerial job positions	5	5	100,0															
	Employees at the authority	16	12	75,0	2	12,5					2	12,5							
National Bank of RM	Elected or nominated persons	4	3	75,0	1	25,0													
	Managerial job positions	125	115	92,0	4	3,2					3	2,4	3	2,4					
	Non-managerial job positions	307	263	85,7	26	8,5	3	1,0			10	3,3	4	1,3			1	0,3	
	Employees at the authority	436	381	87,4	31	7,1	3	0,7			13	3,0	7	1,6			1	0,2	
State Election Commission - Expert Service	Elected or nominated persons	8	5	62,5	3	37,5													
	Managerial job positions	23	13	56,5	8	34,8											2	8,7	
	Non-managerial job positions	72	46	63,9	21	29,2							4	5,6			1	1,4	
	Employees at the authority	103	64	62,1	32	31,1							4	3,9			3	2,9	
Macedonian Academy of Sciences and Arts - Skopje	Elected or nominated persons	0																	
	Managerial job positions	10	10	100,0															
	Non-managerial job positions	54	49	90,7	2	3,7	1	1,9			2	3,7							
	Employees at the authority	64	59	92,2	2	3,1	1	1,6			2	3,1							
Ministry of Interior Affairs	Elected or nominated persons	5	4	80,0	1	20,0													
	Managerial job positions	1358	1109	81,7	186	13,7	5	0,4	4	0,3	29	2,1	2	0,1	4	0,3	19	1,4	
	Non-managerial job positions	9412	7226	76,8	1770	18,8	76	0,8	67	0,7	140	1,5	8	0,1	26	0,3	99	1,1	
	Employees at the authority	10775	8339	77,4	1957	18,2	81	0,8	71	0,7	169	1,6	10	0,1	30	0,3	118	1,1	
Ministry of Economy	Elected or nominated persons	4	2	50,0	1	25,0					1	25,0							
	Managerial job positions	47	33	70,2	12	25,5	1	2,1							1	2,1			
	Non-managerial job positions	87	41	47,1	34	39,1	4	4,6	1	1,1	1	1,1	3	3,4	2	2,3	1	1,1	
	Employees at the authority	138	76	55,1	47	34,1	5	3,6	1	0,7	2	1,4	3	2,2	3	2,2	1	0,7	
Ministry of Environment and Spatial Planning	Elected or nominated persons	4	3	75,0	1	25,0													
	Managerial job positions	55	44	80,0	8	14,5					1	1,8	2	3,6					
	Non-managerial job positions	161	95	59,0	58	36,0	1	0,6			3	1,9		0,0	2	1,2	2	1,2	
	Employees at the authority	220	142	64,5	67	30,5	1	0,5			4	1,8	2	0,9	2	0,9	2	0,9	



		ADEQUATE AND EQUITABLE REPRESENTATION															
		Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other	
		Total		Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Ministry of Health	Elected or nominated persons																
	Managerial job positions	60	50	83,3	9	15,0										1	1,7
	Non-managerial job positions	140	52	37,1	80	57,1	3	2,1	1	0,7	2	1,4	1	0,7	1	0,7	
	Employees at the authority	200	102	51,0	89	44,5	3	1,5	1	0,5	2	1,0	1	0,5	1	0,5	1
Ministry of Agriculture, Forestry and Water Economy	Elected or nominated persons	6	2	33,3	3	50,0	1	16,7									
	Managerial job positions	129	118	91,5	7	5,4				2	1,6	1	0,8			1	0,8
	Non-managerial job positions	758	575	75,9	135	17,8	17	2,2	5	0,7	14	1,8	2	0,3	7	0,9	3
	Employees at the authority	893	695	77,8	145	16,2	18	2,0	5	0,6	16	1,8	3	0,3	7	0,8	4
Ministry of Informatics Society and Public Administration	Elected or nominated persons	3	2	66,7	1	33,3											
	Managerial job positions	17	15	88,2	1	5,9				1	5,9						
	Non-managerial job positions	174	145	83,3	10	5,7	3	1,7	1	0,6	5	2,9	3	1,7	5	2,9	2
	Employees at the authority	194	162	83,5	12	6,2	3	1,5	1	0,5	6	3,1	3	1,5	5	2,6	2
Ministry of Culture	Elected or nominated persons	4	1	25,0	1	25,0	1	25,0		1	25,0						
	Managerial job positions	42	34	81,0	5	11,9	1	2,4		1	2,4	1	2,4				
	Non-managerial job positions	112	58	51,8	47	42,0				4	3,6	1	0,9	2	1,8		
	Employees at the authority	158	93	58,9	53	33,5	2	1,3		6	3,8	2	1,3	2	1,3		
Ministry of Local Self Government	Elected or nominated persons	2	2	100,0													
	Managerial job positions	13	8	61,5	5	38,5											
	Non-managerial job positions	30	6	20,0	21	70,0						1	3,3	2	6,7		
	Employees at the authority	45	16	35,6	26	57,8						1	2,2	2	4,4		
Ministry of Foreign Affairs	Elected or nominated persons	43	37	86,0	4	9,3	1	2,3		1	2,3						
	Managerial job positions	108	90	83,3	15	13,9	1	0,9		1	0,9					1	0,9
	Non-managerial job positions	334	230	68,9	87	26,0	6	1,8	3	0,9	3	0,9	3	0,9	1	0,3	1
	Employees at the authority	485	357	73,6	106	21,9	8	1,6	3	0,6	5	1,0	3	0,6	1	0,2	2
Ministry of Education and Science	Elected or nominated persons	4	2	50,0			1	25,0	1	25,0							
	Managerial job positions	23	19	82,6	3	13,0				1	4,3						
	Non-managerial job positions	205	124	60,5	62	30,2	5	2,4		9	4,4	1	0,5	4	2,0		
	Employees at the authority	232	145	62,5	65	28,0	6	2,6	1	0,4	10	4,3	1	0,4	4	1,7	
Ministry of Defense	Elected or nominated persons	3	2	66,7	1	33,3											
	Managerial job positions	90	76	84,4	10	11,1				2	2,2	1	1,1	1	1,1		
	Non-managerial job positions	821	646	78,7	124	15,1	12	1,5	5	0,6	13	1,6	7	0,9	7	0,9	7
	Employees at the authority	914	724	79,2	135	14,8	12	1,3	5	0,5	15	1,6	8	0,9	8	0,9	7
Ministry of Justice	Elected or nominated persons	4	3	75,0	1	25,0											
	Managerial job positions	40	35	87,5	3	7,5				1	2,5			1	2,5		
	Non-managerial job positions	196	108	55,1	70	35,7	7	3,6	4	2,0	3	1,5	2	1,0	1	0,5	1
	Employees at the authority	240	146	60,8	74	30,8	7	2,9	4	1,7	4	1,7	2	0,8	2	0,8	1
Ministry of Transport and Communications	Elected or nominated persons	5	3	60,0	2	40,0											
	Managerial job positions	61	55	90,2	4	6,6	1	1,6		1	1,6						
	Non-managerial job positions	174	131	75,3	29	16,7	5	2,9	2	1,1	3	1,7	1	0,6	2	1,1	1
	Employees at the authority	240	189	78,8	35	14,6	6	2,5	2	0,8	4	1,7	1	0,4	2	0,8	1
Ministry of Labor and Social Policy	Elected or nominated persons	2					1	50,0	1	50,0							
	Managerial job positions	43	33	76,7	3	7,0		0,0	3	7,0	2	4,7	2	4,7			
	Non-managerial job positions	238	154	64,7	57	23,9	4	1,7	9	3,8	7	2,9	5	2,1	1	0,4	1
	Employees at the authority	283	187	66,1	60	21,2	5	1,8	13	4,6	9	3,2	7	2,5	1	0,4	1
Ministry of Finances	Elected or nominated persons	5	3	60,0	2	40,0											
	Managerial job positions	115	101	87,8	9	7,8	1	0,9		1	0,9	2	1,7	1	0,9		
	Non-managerial job positions	576	485	84,2	70	12,2	4	0,7	3	0,5	7	1,2	3	0,5	3	0,5	1
	Employees at the authority	696	589	84,6	81	11,6	5	0,7	3	0,4	8	1,1	5	0,7	4	0,6	1
General Secretariat	Elected or nominated persons	2	1	50,0	1	50,0											
	Managerial job positions	55	47	85,5	4	7,3	2	3,6		1	1,8			1	1,8		
	Non-managerial job positions	392	164	41,8	7	1,8	98	25,0	71	18,1	26	6,6	9	2,3	15	3,8	2
	Employees at the authority	449	212	47,2	12	2,7	100	22,3	71	15,8	27	6,0	9	2,0	16	3,6	2

		ADEQUATE AND EQUITABLE REPRESENTATION																
		Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other		
		Total		Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	
General Services Department	Elected or nominated persons	1	1	100,0														
	Managerial job positions	10	10	100,0														
	Non-managerial job positions	375	338	90,1	18	4,8	4	1,1	4	1,1	4	1,1	3	0,8	3	0,8	1	0,3
	Employees at the authority	386	349	90,4	18	4,7	4	1,0	4	1,0	4	1,0	3	0,8	3	0,8	1	0,3
Legislation Secretariat	Elected or nominated persons	1	1	100,0														
	Managerial job positions	11	10	90,9								1	9,1					
	Non-managerial job positions	13	10	76,9	3	23,1												
	Employees at the authority	25	21	84,0	3	12,0						1	4,0					
Secretariat for European Issues	Elected or nominated persons	2	1	50,0	1	50,0												
	Managerial job positions	26	19	73,1	5	19,2						1	3,8			1	3,8	
	Non-managerial job positions	68	43	63,2	14	20,6	2	2,9	2	2,9	2	2,9	3	4,4	1	1,5	1	1,5
	Employees at the authority	96	63	65,6	20	20,8	2	2,1	2	2,1	2	2,1	4	4,2	1	1,0	2	2,1
Secretariat for Implementation of the Framework Agreement*	Elected or nominated persons																	
	Managerial job positions	47		0,0	44	93,6	1	2,1						2	4,3			
	Non-managerial job positions	1719	27	1,6	1438	83,65	137	8,0	85	4,9	10	0,6	5	0,3	17	1,0		
	Employees at the authority	1766	27	1,5	1482	83,9	138	7,8	85	4,8	10	0,6	5	0,3	19	1,1		
Higher Public Prosecutions	Elected or nominated persons	33	23	69,7	7	21,2	1	3,0			1	3,0	1	3,0				
	Managerial job positions																	
	Non-managerial job positions	32	31	96,9	1	3,1												
	Employees at the authority	65	54	83,1	8	12,3	1	1,5			1	1,5	1	1,5				
Basic Public Prosecutions	Elected or nominated persons	93	77	82,8	16	17,2												
	Managerial job positions	2	2	100,0														
	Non-managerial job positions	204	171	83,8	21	10,3	4	2,0	1	0,5	1	0,5	4	2,0	2	1,0		
	Employees at the authority	299	250	83,6	37	12,4	4	1,3	1	0,3	1	0,3	4	1,3	2	0,7		
Appellate Courts	Elected or nominated persons	97	69	71,1	23	23,7	2	2,1				1	1,0			2	2,1	
	Managerial job positions	5	4	80,0	1	20,0												
	Non-managerial job positions	228	192	84,2	22	9,6	2	0,9			1	0,4	9	3,9	1	0,4	1	0,4
	Employees at the authority	330	265	80,3	46	13,9	4	1,2			1	0,3	10	3,0	1	0,3	3	0,9
Basic Courts	Elected or nominated persons	463	372	80,3	62	13,4	3	0,6	1	0,2	9	1,9	7	1,5	6	1,3	3	0,6
	Managerial job positions	22	19	86,4	2	9,1			0,0	1	4,5							
	Non-managerial job positions	1912	1538	80,4	256	13,4	31	1,6	24	1,3	20	1,0	25	1,3	8	0,4	10	0,5
	Employees at the authority	2397	1929	80,5	320	13,4	34	1,4	25	1,0	30	1,3	32	1,3	14	0,6	13	0,5
Funds	Elected or nominated persons	2	1	50,0	1	50,0												
	Managerial job positions	152	117	77,0	31	20,4					2	1,3	2	1,3				
	Non-managerial job positions	1271	1014	79,8	199	15,7	6	0,5	3	0,2	17	1,3	24	1,9	1	0,1	7	0,6
	Employees at the authority	1425	1132	79,4	231	16,2	6	0,4	3	0,2	19	1,3	26	1,8	1	0,1	7	0,5
Centers for Social Work	Elected or nominated persons	23	18	78,3	5	21,7												
	Managerial job positions	59	45	76,3	12	20,3	1	1,7								1	1,7	
	Non-managerial job positions	940	723	76,9	148	15,7	13	1,4	22	2,3	11	1,2	13	1,4	3	0,3	7	0,7
	Employees at the authority	1022	789	76,9	165	16,1	14	1,4	22	2,2	11	1,2	13	1,3	3	0,3	8	0,8
Local Self Government Units	Elected or nominated persons																	
	Managerial job positions	698	532	76,2	131	18,8	10	1,4	2	0,3	7	1,0	3	0,4	2	0,3	11	1,6
	Non-managerial job positions	4645	3526	75,9	839	18,1	92	2,0	41	0,9	73	1,6	35	0,8	10	0,2	29	0,6
	Employees at the authority	5343	4058	75,9	970	18,2	102	1,9	43	0,8	80	1,5	38	0,7	12	0,2	40	0,7
Penitentiary-correctional and Educational-correctional Institutions	Elected or nominated persons	20	13	65,0	7	35,0												
	Managerial job positions	43	36	83,7	7	16,3												
	Non-managerial job positions	749	633	84,5	96	12,8			4	0,5	5	0,7	10	1,3	1	0,1		
	Employees at the authority	812	682	84,0	110	13,5			4	0,5	5	0,6	10	1,2	1	0,1		

ADEQUATE AND EQUITABLE REPRESENTATION

		PERSONS WITH DISABILITIES AND ASSISTANCE																	
		Macedonian			Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other		
		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	
Independent state bodies	Elected or nominated persons	140	81	57,9	44	31,4	6	4,3	3	2,1	1	0,7	3	2,1	2	1,4			
	Managerial job positions	981	834	85,0	97	9,9	7	0,7	1	0,1	19	1,9	12	1,2	4	0,4	7	0,7	
	Non-managerial job positions	9680	7429	76,7	1725	17,8	141	1,5	73	0,8	116	1,2	83	0,9	36	0,4	77	0,8	
	Employees at the authority	10801	8344	77,3	1866	17,3	154	1,4	77	0,7	136	1,3	98	0,9	42	0,4	84	0,8	
Public enterprises	Elected or nominated persons	98	78	79,6	15	15,3	1	1,0			4	4,1							
	Managerial job positions	1103	888	80,5	167	15,1	7	0,6	4	0,4	18	1,6	11	1,0	4	0,4	4	0,4	
	Non-managerial job positions	16000	11161	69,8	3117	19,5	331	2,1	750	4,7	312	2,0	85	0,5	93	0,6	151	0,9	
	Employees at the authority	17201	12127	70,5	3299	19,2	339	2,0	754	4,4	334	1,9	96	0,6	97	0,6	155	0,9	
Public Health	Elected or nominated persons	87	66	75,9	17	19,5					2	2,3	1	1,1			1	1,1	
	Managerial job positions	2358	1970	83,5	232	9,8	29	1,2	1		63	2,7	30	1,3	16	0,7	17	0,7	
	Non-managerial job positions	12706	10357	81,5	1561	12,3	148	1,2	140	1,1	244	1,9	74	0,6	63	0,5	119	0,9	
	Employees at the authority	15151	12393	81,8	1810	11,9	177	1,2	141	0,9	309	2,0	105	0,7	79	0,5	137	0,9	
Elementary education	Elected or nominated persons	187	125	66,8	48	25,7	5	2,7			6	3,2					3	1,6	
	Managerial job positions	209	117	56,0	75	35,9	12	5,7					2	1,0	2	1,0	1	0,5	
	Non-managerial job positions	16960	11207	66,1	4690	27,7	548	3,2	75	0,4	178	1,0	64	0,4	68	0,401	130	0,8	
	Employees at the authority	17356	11449	66,0	4813	27,7	565	3,3	75	0,4	184	1,1	66	0,4	70	0,4	134	0,8	
High education	Elected or nominated persons	64	52	81,3	6	9,4	3	4,7			2	3,1	1	1,6					
	Managerial job positions	142	78	54,9	61	43,0	2	1,4			1	0,7		0,6					
	Non-managerial job positions	7886	5783	73,3	1769	22,4	123	1,6	20	0,3	98	1,2	49	0,6	12	0,2	32	0,4	
	Employees at the authority	8092	5913	73,0	1836	22,8	128	1,6	20	0,2	101	1,2	50	0,6	12	0,2	32	0,4	
Higher education	Elected or nominated persons	690	599	86,8	59	8,6	1	0,1			9	1,3	8	1,2	1	0,1	13	1,9	
	Managerial job positions	191	115	60,2	70	36,6	1	0,5			3	1,6			1	0,5	1	0,5	
	Non-managerial job positions	1348	1080	80,1	219	16,2	9	0,7	6	0,4	16	1,2	11	0,8	1	0,1	6	0,4	
	Employees at the authority	2229	1794	80,5	348	15,6	11	0,5	6	0,3	28	1,3	19	0,9	3	0,1	20	0,9	
Institutions with various activities	Elected or nominated persons	120	102	85,0	13	10,8					3	2,5	1	0,8			1	0,8	
	Managerial job positions	152	130	85,5	13	8,6	2	1,3			6	3,9		0,0			1	0,7	
	Non-managerial job positions	5997	5186	86,48	455	7,6	80	1,33	50	0,8	103	1,7	52	0,9	24	0,4	47	0,78	
	Employees at the authority	6269	5418	86,4	481	7,7	82	1,3	50	0,8	112	1,8	53	0,8	24	0,4	49	0,8	
TOTAL	Elected or nominated persons	2386	1869	78,3	380	15,9	29	1,2	7	0,3	42	1,8	26	1,1	10	0,4	23	1,0	
	Managerial job positions	8764	7041	80,3	1263	14,4	85	1,0	15	0,2	171	2,0	79	0,9	41	0,5	69	0,8	
	Non-managerial job positions	97537	71452	73,3	19420	19,9	1930	2,0	1475	1,5	1476	1,5	611	0,6	430	0,4	743	0,8	
	Employees at the authority	108687	80362	73,9	21063	19,4	2044	1,9	1497	1,4	1689	1,6	716	0,7	481	0,4	835	0,8	
		2014	108687	80362	73,9	21063	19,4	2044	1,9	1497	1,4	1689	1,6	716	0,7	481	0,4	835	0,8
Data for comparison		2013	108078	81406	75,3	19565	18,1	1976	1,8	1365	1,3	1700	1,6	710	0,7	447	0,4	909	0,8

Comparing Table Overview 2007-2014

		Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other	
Years	Total employees	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
2014	108848	81387	74,8	20197	18,6	2045	1,9	1497	1,4	1689	1,6	716	0,7	482	0,4	835	0,8
2013	108078	81406	75,3	19565	18,1	1976	1,8	1365	1,3	1700	1,6	710	0,7	447	0,4	909	0,8
2012	107851	81095	75,2	19151	17,8	2164	2,0	1383	1,3	1709	1,6	741	0,7	585	0,5	1023	0,9
2011	102103	77879	76,3	17598	17,2	1691	1,7	1304	1,3	1665	1,6	678	0,7	387	0,4	901	0,9
2010	82555	63761	77,23	13966	16,92	1340	1,62	574	0,70	1315	1,59	570	0,69	256	0,31	773	0,94
2009	69148	55266	79,92	9712	14,05	895	1,29	551	0,80	1301	1,88	524	0,76	259	0,37	640	0,93
2008	67728	55193	81,49	8642	12,76	825	1,22	527	0,78	1269	1,87	449	0,66	205	0,30	618	0,91
2007	59629	49923	83,72	6429	10,78	649	1,09	464	0,78	1050	1,76	405	0,68	201	0,34	508	0,85

From the collected data, it can be concluded that there is a slight increase of the number of employees in comparison with the previous year. This statement primarily refers to the units of local self-government, autonomous state bodies and public enterprises. On the other hand, it can be concluded that in some institutions, such as at the Ministry of Economy, Ministry of Agriculture, Forestry and Water Management, the Ministry of Transport and Communications, the Ministry of Labour and Social Policy, the number of employees has reduced due to the fact that inspectorates are presented as bodies separated from the ministry and are in the group of independent authorities. In addition, the number of employees at the Ministry of Interior has decreased by 255 employees.

From the data analysis, the Ombudsman concluded that there is a slight quantitative or perceived progress, but not qualitative and realistic one in the implementation of the principle of adequate and equitable representation, but it was also concluded that there was a great number of institutions that had not reached the mandatory or satisfactory level of adequate and equitable representation. This deduction, which leads to the conclusion that in certain institutions the principle of adequate and equitable representation is not sufficiently applied, is especially typical when analysing the data on the representation of members of communities in managerial staff, and the representation of the smaller communities both at the level of total employees and employees at managerial job positions.

On the other hand, again as in the previous years, there is a conclusion that the representation at public prosecutor's offices, penitentiary and correctional institutions, and public health care, the coverage is still unsatisfactory, while in some institutions the level of implementation of the principle of adequate and equitable representation is still low. This conclusion is present both in terms of the total number of employees and employees who comprise the non-managerial staff in the institution.

From the data analysis, the Ombudsman is concerned to conclude that years back there is an occurrence of non-quality implementation of the principle of adequate and equitable representation. Namely, the Secretariat for Implementation of the Framework Agreement has a total number of 1766 employees out of whom 1482 employees are members of the Albanian community, 138 are Turks, 85 are Roma, 10 are Serbs, 5 are Vlachs, 19 are Bosniaks, and the rest are Macedonians, while the General Secretariat has a total number of 449 employees, out of whom 12 are members of the Albanian community, 100 are Turks, 71 are Roma, 27 are Serbs, 16 are Bosniaks, 9 are Vlachs, and the rest are Macedonians, which is a phenomenon that the Ombudsman criticized.

In order to overcome the problem of poor implementation of the principle of adequate and equitable representation, institutions need to undertake concrete measures and activities for affirmation and enforcement of this constitutional principle, while the Ombudsman is going to monitor this recommendation with enhanced surveillance and direct visits.

## CONCLUSIONS

The thorough value - adequate and equitable representation of members of all communities is not implemented at a quality and genuine level.

This principle is not respected especially when it comes to members of smaller ethnic communities and managerial job positions.

The level of participation of community members who do not belong to the majority community in the public prosecutor's offices, penitentiary and correctional facilities and public health care, is under the satisfactory level.

The Ministry of Health, the Public Prosecutor's Office for Organized Crime and Corruption, the State Inspectorate for Construction and Urban Planning, the Clinic of Digestive Surgery, the Faculty of Electrical Engineering and Information Technology, the Faculty of Information Science and Computer Engineering, the Faculty of Medicine, the Faculty of Arts at the State University of Tetovo and several cultural institutions have not provided data this year, as well, persistently obstructing the work of the Ombudsman.

## RECOMMENDATIONS

The institutions should undertake concrete measures and activities for quality and real affirmation and implementation of the principle of adequate and equitable representation.

Undertaking measures and activities for consistent implementation of the principle of adequate and equitable representation, especially in terms of the smaller ethnic communities and managerial job positions.

The institutions to implement without delay, the principle of adequate and equitable representation in terms of community members who do not belong to the majority community.

To stop the practice of not submitting data and obstructing the work of the Ombudsman due to continuous monitoring of the situation regarding the implementation of the principle of adequate and equitable representation.

## OTHER RIGHTS

A considerable number of complaints submitted by citizens to the Ombudsman refer to the lack of action by the state administration bodies and other bodies and organizations with public authorisation on their requests, while fewer complaints were submitted by legal persons considering the same problem.

Acting upon these complaints, the Ombudsman demanded from the competent bodies to notify them of the objective reasons why it was not acted upon the requests of citizens, emphasizing their commitment to respond in written to the citizens' complaint or grievance.

Regarding the complaints submitted by legal entities, the Ombudsman has informed them through legal advice of the way and the possibility of implementing the right for which an intervention was requested.

A characteristic of this year is the increasing number of complaints related to the work of the Agency for Financial Support of Agriculture and Rural Development, more precisely related to the direct payments in agriculture or payment of finances on the basis of the Programme for Financial Support of Agriculture. After the undertaken measures for studying each distinct case,



the Ombudsman pointed to the Agency that if the requirements are met, it is obliged to undertake measures for smooth realization of the rights of complainants and to give written responses to their requests. After the Ombudsman's interventions on based citizens' requests, the Agency for Financial Support of Agriculture and Rural Development replied positively.

Some of the citizens' complaints were deployed to the field of other rights because based on their contents and requirements, they were outside the scope of work of the Ombudsman established by the Constitution of the Republic of Macedonia and the Law on the Ombudsman, therefore the Ombudsman did not have basis to act upon them. However, even in such cases, the Ombudsman indirectly advised citizens directing them to which authority they should refer in order to protect their rights.

## LOCAL SELF-GOVERNMENT

The Ombudsman, acting upon complaints from citizens and following the situation at the local level, through its six regional offices, found that there are still weaknesses in the functioning of the local self-government bodies which decide upon vital issues of local concern.

According to the Ombudsman, the local self-government should be based on postulates that guarantee righteousness, equal opportunities, trust, tolerance and respect to the citizen, because with such an approach and attitude, it will be their public service and citizens will have full confidence in its capacity and efficiency.

The perceptions of the Ombudsman show that citizens become more aware of their rights and more decisively and persistently seek their smooth realization and enjoyment. Furthermore, considering the content of citizens' complaints, it is evident that their expectations are higher compared to the capacities and capabilities of the local self-government, and what it can actually enable to them.

In this part of the annual report, the Ombudsman presents the findings of the degree of realization of citizens' right before the local authorities, individually in areas that are within the competence of the local government.

## Urban Planning and Construction

As from the decentralization, local self-government units are authorized for leading the process of urban planning and construction, meaning quality spatial planning and efficient acting upon the requests for issuance of required documentation for the implementation of the urban plans in a transparent manner.

In the field of urban planning in 2014, the Ombudsman received a small number of complaints submitted by citizens - residents of Skopje municipalities. This data shows that citizens are not sufficiently interested in how the local governments plan the area in which they live, and that they only react when urban plans are threatening their personal interest.

The following of the conditions of urban planning and construction shows that citizens insufficiently participate in the procedure for adoption of detailed urban plans with their opinions in public surveys, as an opportunity to make suggestions and comments on the draft plans. These activities of the citizens may result positively and influence the local government to review the offered solutions, as the case with the Municipality of Karposh.

Namely, after the Ombudsman intervened upon a complaint from Karposh citizens, the mayor reported that most of the proposals and objections of citizens were adopted by the competent commission and a conclusion was brought to implement a new public presentation and

survey for amendments to the detailed urban plan.

In construction, this reporting year most of the submitted complaints were about non-execution of decisions for removing illegal constructions by the local self-government. Citizens complained that their possession with the ownership is impeded because of the illegal buildings being built in their vicinity, for which the Ombudsman pointed to the construction inspection to undertake measures upon these cases. In cases when the complaints' allegations were confirmed, the inspection acted by adopting a decision for removing the illegal construction as well as a conclusion for execution by the builder of the illegal constructions.

Pursuant to the Law on Construction, the investor is obliged to act upon the decision on removal, otherwise the local government has the authority to execute removing of the building at the expense of the unlawful constructor.

Citizens reacted that the local self-government does not do that, and that most of the time it only formally inserts the constructions in the Programmes for execution without implementing it even after a few years.

For instance, a complaint for intervention before the Municipality of Resen was submitted to the Ombudsman for undertaking effective measures in order to execute an administrative act adopted by the Mayor.

The Ombudsman concluded that the Mayor adopted an approval for removing the facility as early as in 2013, as well as an approval for removing the construction of the building's co-owners, ordering the building to be demolished within 15 days. But, even after a year since the approval for removal of the construction was issued, the construction was not destroyed, despite the fact that there was a danger of self-ruining and causing damage.

The Mayor informed the Ombudsman that it was not possible to execute a proper delivery of the administrative act to the co-owners of the building, because they are outside the country, and that the Municipality did not remove the building at their own expense.

Regarding the overall situation, the Ombudsman concluded that the Municipality of Resen has no intention of removing the building in due time. As a result, the Ombudsman pointed to the legal possibility that in case of suffering damage from the self-ruining of the building, the citizen should file a lawsuit and claim damages from the municipality for failing to undertake measures for removing the building, being obliged to do that under the law.

The citizens of the Municipality of Krivogashtani have also requested protection of the right to ownership of property, which was damaged by an illegal construction, emphasising that the builder proceeded with its construction since the municipality failed to undertake measures and prevent it. The Municipality of Krivogashtani informed the Ombudsman that it was not able to undertake adequate measures against the illegal constructors, since it did not possess an authorised construction inspector. The Ombudsman was also informed that the Municipality has submitted a proposal to the State Construction Inspectorate for performing their duties of inspection, but the State Construction Inspectorate informed the municipality that they were not able to respond positively to the request. In addition, the State Construction Inspectorate referred to the Law on Inter-Municipal Cooperation which provides the possibility for authorising a person from a neighbouring municipality in order to perform the activities of inspection. The Municipality initiated such a procedure as the only way to overcome the problem that the citizens face.

Citizens of the Municipality of Dojran faced the same problem, because in spite of fact that the decision for removal of an illegal constructions built in the City Market of Star Dojran in 2010 was adopted, the Municipality is still not implementing it forcefully after more than 4 years. In this case, the construction inspector, who has brought the decision for removal, has not brought a conclusion on execution, since the authorisation of the authorized construction inspector had seized due to the termination of the contract for inter-municipal cooperation with the Municipality of Bogdanci.

The Ombudsman found that since the conclusion for approval of execution has not been brought, a forced removal of the building both by the illegal builder and the municipality is formally and legally prevented. A conclusion on approval of execution was adopted only three years later, more precisely in 2013, when the Municipality of Dojran engaged an authorized construc-

tion inspector from another municipality, and a year later it initiated the procedure for selecting a company that will perform the removal of illegal constructions.

According to the Ombudsman, it is unacceptable not to provide citizens with the right to undisturbed possession of their property, as well as the providing of planned and legal planned construction of buildings in the municipality. More specifically, due to the inefficiency of the local self-government to timely initiate a procedure for providing an inspection or due to unresolved staff issue, the citizens are incapable of exercising their rights. In addition, this manner of operation contributes to increased distrust in the effectiveness of the local self-government.

In another case, when the citizen was informed by the Municipality of Kriva Palanka that the investor has implemented the decision and removed the buildings, the Ombudsman concluded that the illegal buildings were not removed, but, in the meantime, several auxiliary buildings have been built, as well. Having established such a situation, the Ombudsman demanded from the inspectorate to go on the site, to carry out a supervision and to oblige the investor to remove the buildings, while for the other auxiliary buildings, after determining the legal status, to adopt appropriate administrative acts. The Municipality fully acted upon the Ombudsman's requests and reported that all buildings of illegal constructors had been removed.

Complaints for failing to execute decisions for removal of illegal buildings, some of which have been adopted as early as in 2009, were filed against the municipalities of Kichevo, Ohrid, Strumica, Bitola, Tetovo and Negotino.

The Ombudsman concluded that in these municipalities the implementation of decisions is only formally provided in the Programmes of execution, but, in reality, they are not implemented even after a long period of time.

Considering the determined situation in terms of non-execution of the decisions for removal of illegal constructions, the Ombudsman emphasizes the legal responsibility of the local self-government to undertake effective and efficient measures, in order to create real conditions for the implementation of the transferred competence, unless there is a procedure for determining the legal status of those buildings.

According to the Ombudsman, the reasons cited by the municipalities (unpublished tender for selection of a company, lack of funds) are unjustified, especially considering the Construction Law, which provides that the costs of forced execution will be charged to the illegal builders. This behaviour by the local government violates the rights of the citizens who suffer damages and are unable to smoothly govern their properties and, on the other hand, it allows the illegal builders to proceed with the construction and to initiate proceedings to legalize the illegal building.

Acting on the complaints for legalisation of illegal buildings, the Ombudsman concluded that most of the procedures were ceased until completion of the required documentation (lack of geodetic report), and that there were cases in which the delay of the proceedings was due to the need to obtain the consent from users of land owned by the Republic of Macedonia when part of the building is located on state land. In proceedings where citizens have submitted all the documentation, the Ombudsman managed to obtain a swift resolution of the matter and the citizens received the decisions on legalization.

Some citizens filed complaints due to rejection of their requests for legalization, where the Ombudsman concluded that the requests applied to buildings that were started after the Law dealing with illegal buildings came into force, and as such, they cannot be legalised.

In one case, acting on the complaint, the Ombudsman demanded from the Commission for legalization in the Municipality of Prilep, to reconsider the factual situation in a specific case in which it has already issued a decision on legalization. This action was due to the fact there was a doubt for the grounds of the legalized building, for which an administrative act for removal was adopted by the construction inspection. The Commission informed the Ombudsman that during the procedure for determining the legal status of the illegal construction they had not had such knowledge and that it was obtained by the Ombudsman, and as a result it would additionally reconsider the facts and would act upon it pursuant to the Law on General Administrative Procedure and the Law on Dealing with Illegal Buildings.

Regarding the implementation of the right of legalization of illegal buildings, the Ombuds-

man concluded that many citizens who are beneficiaries of social protection are not familiar with their possibility to obtain a free geodetic report prepared by the Agency for Real Estate Cadastre. Therefore, the Ombudsman suggested that local governments should undertake measures in order to inform the citizens about this right.

In this reporting period there were complaints about the state of the streets the maintenance of which is the responsibility of the municipality. In this context, the residents of the Municipality of Krushevo requested an intervention by the Ombudsman since the municipality does not undertake measures to address the problem of unpaved streets, which makes the access by car difficult. The citizens stated that they repeatedly reacted to the Mayor of the Municipality, but did not receive a specific response when and whether the municipality plans to repair the respective part of the street.

The Ombudsman addressed the Mayor of the Municipality of Krushevo who replied that the part of the street, which is the subject of the complaint, should be regulated pursuant to the Detailed Urban Plan. Therefore, in 2010, the Council of the Municipality of Krushevo brought a conclusion prioritising the construction of roads, which covers that part of the street which was also entered in the financial framework for 2014, and it will be implemented depending on the financial resources of the municipality.

Considering the fact that there was a formally given priority to the construction of the respective street and that the implementation was delayed even for 4 years, the Ombudsman indicated to the Mayor that the delay of the procedure for construction of the road, violates the rights of citizens. In addition, the Ombudsman pointed out that the formally established priority is pointless and ineffective and demanded creation of conditions and provision of funds, so that the construction on the street for which the inhabitants have been asking for implementation years back could finally begin.

The Municipality of Krushevo did not accept the indication on the grounds that the construction of streets is financed according to a priority regarding their impairment and functionality, which does not include the specific street. According to the Municipality, the renovation of this part of the road will be done when there will be a financial possibility for that.

The Ombudsman concluded that the local government in Krushevo does not act on the previous conclusions, and such a response only confirms the formality of the decisions on priority actions, which is an unprofessional and unethical behaviour towards citizens.

A complaint on similar grounds was also submitted by a citizen of the Municipality of Bitola, who requested protection for harmful consequences on his property due to the damage of the street. Since the authorised inspector failed to act upon the requests of the Ombudsman, a written report has been submitted to the Mayor of the Municipality for obstructing the work of the Ombudsman. After that, the Ombudsman was informed that in the Programme of the municipality a reconstruction of the whole street was envisaged, that the project was in progress and the reconstruction would start in the following months. By the end of this reporting period, no measures were undertaken for the reconstruction of the street.

As a positive example of adopted citizens' initiative is the local government of the Municipality of Delchevo. In addition, the residents of Zvegor, after realizing that the Municipality had changed the decision and instead of a street was planning to build a pedestrian path, expressed their dissatisfaction and requested from the municipality to construct the street as it was planned. Due to the persistence of the residents in the intention to respect their will and to improve their quality of life, the Municipality of Delchevo agreed to their request and started the construction of the street.



## Education

After the local government took over the competences from central to local level, providing finances in the field of education remains one of the problems, which each municipality in the country faces. The Ministry of Education and Science provides funding to this area through block and allocated subsidies, but despite that, some of the local self-government units in 2014 faced difficulties in providing heating in schools and transportation to students. For these reasons, schools in the Municipality of Struga, Kichevo and Ohrid were disconnected from the electrical network during the month of November, and the educational process could not take place smoothly.

Namely, before the start of the school year, several schools in the Municipality of Struga were disconnected from electricity, so the problem has been overcome by an agreement on paying the debt in instalments. The students' transportation in this municipality is a big problem since 80% of the high school students come from the surrounding villages, and funds allocated for the transport are not enough. Because of the transport debts to carriers, some students in the Struga high schools "Niko Nestor" and "Ibrahim Temo", who live in rural areas, boycotted classes for a certain period of time, and requested transportation to be provided by the school.

Furthermore, for one week in November in PS "Gligor Prlichev" in Ohrid the classes were reduced to 15 minutes, because the building was disconnected from electricity as a result of unpaid debts to EVN Macedonia. The problem was solved in a way that the Municipality of Ohrid took over the school debt, so that the classes would continue normally.

In the Municipality of Kichevo, the schools have faced lack of wood and disruption of heating, while the primary schools "Kuzman Josifovski Pitu", "Sande Shterijovski" and "Vladimir Polezhinovski" were disconnected from electricity in mid-November and because of that 2500 students have not attended school for half a month. The schools have asked for help from the Municipality and the Ministry of Education, while the Municipality of Kichevo, in order to solve the problem, demanded an interventional aid from the commodity reserves. The Government has decided that 60 tons of oil from the state reserves should be transferred to the schools in the Municipality of Kichevo.

The above listed problems point to the necessity of undertaking appropriate measures rather than interventional and short-term solution, therefore the Ombudsman points to the fact that effective and permanent solution to the problems that the schools have been facing for years should be found. That would require an analysis of the situation in order to determine the actual funds that are necessary for the financing of the transferred competences in education.

Regarding the right to education, which is compulsory and free, the Ombudsman finds it unacceptable to boycott classes because of disconnected electricity, to teach in cold classrooms or to perform unsecured transport of students, and thus recommends to both the central and local government to mutually cooperate and detect the problems in this area, in order to find a viable solution for overcoming such a situation in the primary and secondary schools.

Having monitored the state of enrolment for this academic year, the Ombudsman found that schools, in case of vacancies for entry, instead of deciding at the teachers' council, as it was done in the previous years, about how many points a student must have to be admitted, this time, they were required to seek an approval from the Ministry of Education and Science, for reducing the points of entry and filling of the vacancies.

This news caused problems, revolt and public demonstration of dissatisfaction among students and parents in many municipalities, including the municipality of Bitola and Kochani.

Namely, in the Municipality of Kochani, 28 students, who applied for an enrolment in the high school "Ljupco Santov", have been rejected because of the smaller number of points than the anticipated ones by the enrolment rules, refused to go to school and be involved in the educational process for 12 days from the beginning of the school year.

In the Municipality of Bitola, about 100 high school students enrolled in EHMS "PhD. John Kalauzi" with smaller number of points than the anticipated ones, and at the beginning of the school year (1st of September), they started attending classes. After the expiry of 10 days, the school returned their documents because the Ministry of Education did not give consent for enrol-



ment of students with smaller number of points at this vocational school.

The parent, who submitted the complaint, expressed a dissatisfaction for the above listed and the inability of his and other children to continue their education in such conditions when the enrolment in secondary schools have already been completed and classes have started in all schools. The parent also stated in the complaint that they were told that, as in the past years, the vacancies in the classes would be filled with students who do not meet the criteria in points. By not receiving an approval, the school has faced the risk of remaining without 100 students, as well as, without an adequate number of classes, which resulted in additional job positions for about 8 professors. However, in the interest of all, the competent body has found a solution and these high school students continued to attend school.

This reporting year as well, the Ombudsman has detected the problem of regionalization in the enrolment of pupils in the primary education.

About fifty students from first to fifth grade, from the settlement Prevalec in Veles, boycotted classes from the very beginning of the school year, and parents requested from the local government to implement a regionalization as provided by law and the decision of the municipality, for students to attend classes in the elementary school "Vasil Glavinov" which is closer to the students, rather than that in Gorno Orizari.

Parents have requested a consideration of the regionalization during the enrolments in the primary schools since 2011, but the local government did not implement it.

At the beginning of November, the Council of the Municipality of Bitola brought a decision on regionalization which exactly determines the territories where schools are as well as the streets that are covered. The occasion for this decision of the Council of the Municipality of Bitola was, among other things, due to the frequent appearance of withdrawing and re-enrolling of pupils from one school to another and the formation of ethnically homogenous classes, which the Ombudsman has already indicated in its previous reports. The decision for regionalization in the elementary schools stipulates an obligation for the parents to enrol their children in the nearest educational institutions.

In recent years, this was not obligatory, and it was left on the parents to decide and choose the school where they want to enrol their child, even in distant schools, if the maximum number of students was not filled. The lack of regionalization in recent years has led to the creation of ethnically clean classes in schools, or as in the school "George Sougarev" in Bitola where children from one ethnic community prevailed and, in recent years, there has been decreasing of students from the Macedonian nationality and an increasing number of classes attended only by students from the Roma community. This phenomenon contributes to an increased feeling of inequality among students, as well as an increase of the barriers between them, as opposed to the concept of integrated education which should be achieved by each local government.

The president of the local community of the village Jelovjane filed a complaint for the grouping of the classes in the elementary school "11 Oktomvri", in which he expressed his dissatisfaction and demanded an intervention due to the reduction of the number of classes from four to two classes, indicating the possibility that the school may be closed and the students from the village Jelovjane may attend school in the village Urvich, without taking into account the travelling of the students at poor weather conditions.

Following the Ombudsman's request, the municipality Bogovinje denied the statements on the grounds that their tendency is to open new schools closer to students, while regarding the combined classes, the municipality reported that the Council had decided to maintain the teaching in the combined classes only because of the small number of pupils in the local primary school, "11th October"- Jelovjane, according to the Law on Primary Education, by which 24 students are required in order to have a separate class.

The Ombudsman initiated a proceeding on its own initiative, concerning the articles in the media about violations of the rights of the students in the primary school "Svetozar Markovic" in Staro Nagorichane.

Namely, as indicated in the media, because a key was stolen from the school, the school principal locked the students in the school building and held them locked about two and a half hours. After the parents reported the event to the police, the students were released by the po-

lice.

Acting upon the complaint, the Ombudsman concluded that the school principal has violated the right to freedom of movement of the students by forcefully retaining them in the school, causing mental stress of minor children, and by acting contrary to the law and the best interest of the child, the competent inspection authorities called for concrete measures to appropriately sanction the offenders.

Acting on the request, the State Educational Inspectorate submitted a request for initiating a misdemeanor procedure against the school principal, and after the conducted disciplinary procedure against the cleaners at the school, disciplinary measures were imposed.

Considering this situation in the field of education, in this report, the Ombudsman recommended to the units of the local government to take measures in order to increase the capacity of the municipalities in managing and planning the funds which are allocated for education. In this respect, it is necessary to improve the quality of the education, a development, the improvement of the schools, the teacher training, strategic and financial planning and information system for managing the schools.

## Social protection

With the process of decentralization in the area of social protection, the municipalities had the opportunity and the responsibility to develop the social functions on a local level, to create programs for satisfying the needs of the social risk groups. Specifically, the local government with the decentralized jurisdiction got the authority to establish system of measures, activities and policies for preventing and overcoming the basic social risks to which the citizen is exposed to, or a system of measures for reducing poverty and social exclusion.

Following the general situation in this area, the Ombudsman stated that poverty and unemployment are problems in all municipalities, because municipalities primarily concentrate on meeting the cash requirements of socially vulnerable and materially unsecured categories. Often, the funds allocated by the local governments are in form of one-off financial assistance, and the funds which are allocated in the municipal budget for this are minimal, usually about 1% of the budget in average.

In the reporting period, most of the complaints were regarding the exercise of the right to social protection, in particular the right to one-off financial aid, which the citizens require from the municipalities.

Acting upon them, the Ombudsman for some of them managed to expedite the proceedings in front of the local government and for the citizen to be paid one-off financial assistance, but with most of the complaints, because of the limited funds in the municipal budget, or meeting the criteria for granting the same, the citizens could not exercise this right.

In almost all municipalities, the grounds on which the citizen could require a one-off financial aid is impaired health condition and the need of a treatment or a surgery or other risky situations that disrupt their housing conditions and life (fire, flood of the home, etc.), while no local government has envisaged the opportunity, as a form of social assistance, to write off the debt of the citizens of high social risk for utility fees which they are required to pay to the public enterprises of the municipality, to reduce, or at least to a certain time period, to delay the payment of taxes that the citizens are obliged to pay to the municipality.

In addition, the Ombudsman stated that there have not been efficient actions yet, the financial means for obtaining efficient social protection for the children and the elders are not allocated or are not sufficiently allocated, and the kindergartens and the care homes for the elders are insufficient because the existing capacities do not satisfy the needs of the local population.

In this respect, the Rosoman municipality did not establish its first kindergarten until 2014, although the local government itself, years ago, pointed out the real need for this type of facility in this municipality because the children from Rosoman attended the kindergarten in Kavadarci.

The Ohrid municipality did not notify its citizens until this year that there was a plan for building a retirement home, although the elderly and retired people from Ohrid, that do not have someone to care for them or they want to live by themselves, still do not have a place to stay because the Ohrid region does not have a home for the elderly.

Following the general condition in this area, the Ombudsman determined lack of formally established and standardized mechanism for identifying poor and vulnerable groups.

Namely, the municipalities lack database regarding issues related to social protection, created according to the target group, criteria for the recipients of aid, etc. The problems of the vulnerable groups are usually discovered through the submission of request by the citizens directly to the municipality or through the local communities. Moreover, the need for sustainability of decentralized social services is essential. The sustainability of these services depends on the amount of funds intended for this purpose which are obtained from the budget of the municipality.

Therefore, the Ombudsman recommends earmarking of the funds for obtaining social protection for the citizens when the budget of the municipality is adopted. This process should be transparent with the inclusion of the citizens in the process of identifying their needs. .

With the active participation in the adoption of the decisions which are important for the citizens themselves, the municipalities will be able to have more responsible approach towards the planning of the social services packages, to direct them towards certain vulnerable groups and to start the actual implementation of the competence in this area.

## **Employment**

In this reporting period, the Ombudsman received a lot of complaints in which the employees in the municipality administration ask for protection of the labor rights which points out to the fact that there is a mobbing or that actions and adopting of acts by the mayors in several municipalities are not undertaken or that they are deliberately not undertaken.

The complaints based on harassment at work and discrimination are submitted towards the mayors of the municipalities of Vasilevo and Kriva Palanka, and the complainers state that although they perform the tasks on time and professionally, they are subjected to everyday pressure, penalties, assessments with lower evaluations, etc. by the mayors.

Namely, the Ombudsman acting upon the submitted complaint by an employee in the municipality administration in Vasilevo learned that the complainer has been subjected to mobbing, pressures and torture by the mayor for many years. He has performed all duties and orders consciously, including delivery of tax bills for about two months in the surrounding residential areas under difficult circumstances. During the working hours, he has been monitored constantly by video surveillance and even though he fulfilled his duties and assignments he was still negatively assessed.

The mayor of Vasilevo regarding the allegations in the complaint informed the Ombudsman that the employee was rated negatively because he was already imposed with several warnings about his performance of the tasks. The mayor did not give any information about the reasons why this employee was assigned to perform the delivery of the solutions alone, and regarding the monitoring, he said that he followed the performance of the duties for that position because there were complaints from the clients and the employees about his way of work and behavior.

In another case, the complainant who is employed in the municipality administration in Kriva Palanka complained that in recent years he has been exposed to constant pressure, humiliation, psychological harassment and degradation at work by the mayor. According to the complainant, this intolerance by the mayor towards him was not part of his work as mayor, and it also increased a year ago after a failed attempt by the mayor to declare him redundant, i.e. when the second instance authority annulled the acts adopted by the mayor.

In the letter that the mayor of Kriva Palanka submitted to the Ombudsman in response to his requests, he denied all allegations in the complaint and stated that on his part there was no impatience, neither to the complainant nor to any other employee of the municipality of Kriva Palanka, and denied the claim of the complainant that there has been discrimination towards him. In the response, the mayor as a support submitted an opinion by the Commission for Protection against Discrimination, in which was established that there was no discrimination on grounds of political affiliation in the field of work and labor relations.

The Ombudsman advised the complainant of the possibility of initiating legal proceedings, since the discrimination or the mobbing are determined in a procedure before the competent court in compliance with the legal regulations.

The employees in municipality administrations also requested protection due to delayed delivery of solutions by the appellate authority towards them and the failure of the mayor to act upon the decisions by the second instance authority.

These types of complaints were submitted by the citizens who were employed in the municipalities of Tearce and Tetovo.

Acting upon these complaints, the Ombudsman concluded that in the meantime the mayors have provided solutions to the citizens, or acted upon the decisions of the second instance authority.

The Ombudsman also acted upon a complaint by an employee in the municipality of Shtip for its unjustified reassignment to another post by the mayor.

Namely the complainant, although applied at the job notice and signed a contract for the job position of firefighter where he has proved his professionalism, responsibility and diligence in the performance of their tasks, which resulted in obtaining the award in the best shift of the territorial fire unit in Shtip for October 2014, without justifiable and reasonable explanation was reassigned to a new job position as a courier.

According to the complainant, the reassignment was due to the reaction of the mayor because of an earlier lawsuit filed by him for payment of the difference in the compensation for overtime and holiday work.

Acting upon the complaint, the Ombudsman requested information from the mayor, supported by evidence, first for the justification and the reasons of the need for reassignment, as well as if the procedure was conducted in accordance with the law and the collective agreement, if the union was notified and if it is decided upon the complaint of the employee.

In the period while the response was expected from the mayor, the complainant informed the Ombudsman that he had received a response for the complaint that it had been rejected as unfounded, to which he initiated proceedings for the protection of his rights.

The Ombudsman acted upon a complaint on grounds of unfounded reduction of salary filed by an employee in JPKD "Komunalec" Strumica. Acting upon the complaint, the Ombudsman asked the State Labor Inspectorate to conduct supervision and take measures according to the determined situation after which with the decision of the Inspectorate, the company was obliged to pay the difference to the full salary. The company filed a complaint which, by the Minister of Labor and Social Policy, was rejected as unfounded and after the decision by the second instance authority, the company made full payment of the salary for the performed work of the complainant.

Otherwise, from the area of violation of the labor rights, complaints of teachers in primary and secondary schools are submitted to the Ombudsman, of which the most numerous were the complaints submitted on the basis of decisions issued by the school principals to reduce salaries in the amount of 15 %, for a period of 1 year, based on the report received from the State Examination Centre with results from the external evaluation of the achievements of the pupils.

Acting upon several complaints in this respect by teachers from the school "Jane Sandanski" Shtip, the Ombudsman found that after their objections to the decisions, the school board applied the wrong legal provision. Specifically, the teachers received a conclusion by the School Board which reports that the School Board, according to the Law on Secondary Education, is deprived of the right to subsidiarity in deciding upon appeals or complaints of employees and the



teachers are directed to seek protection of law in a lawsuit.

Noting that the School Board has been violating the employment right of the complainants, the Ombudsman indicated that in these cases, the Law on Secondary Education is incorrectly applied, and thus the rights of the employed teachers are violated and he asked to decide on complaints of teachers by adopting appropriate act. The School Board accepted the notice and held repeated session which reviewed the complaints and decisions were made. Since with the decisions the objections of the School Board were rejected as unfounded and the decisions of the director were confirmed, the Ombudsman advised the complainants to request protection of the right to the competent court.

On the same basis, through the chairman of the Activist Group of Special educators, a complaint was filed by a group of teachers, employed as teachers –special educators in special classes in the elementary school “Vanko Prke” in Stip. In the complaint it was stated that the director adopted decisions for seven teachers from the special classes to cut their salary by 15% for a period of 1 year, which is a violation of their labor rights, because they, as teachers –special educators, are not subjected to evaluation or internal inspection.

The Ombudsman was informed by the school director that he acted on the guidance received by the State Examination Centre, i.e. that these teachers – special educators, although they work with children – pupils with mild disability, moderate disability and autism should be included in the internal inspection. However, the School Board, acting on their complaints, adopted them and the adopted solutions to reduce salary by the director are abolished.

Regarding the protection of the labor rights, the Ombudsman acted upon the petition for reviewing the proceedings in which the director of the School “Metodija Mitevski - Brico” Delchevo, declared suspension of the job for two employees with 30 years of experience, which procedure is stopped because of a court action by the complainants.

Complaints were filed on the basis of a review of the basis for the allocation of teaching hours by the school principal, to accelerate proceedings brought before the school board and deciding upon the stated objections, as well as for non-compliance of a court decision by the school principal. On all these complaints, the Ombudsman where they found violation of law or delay the proceedings, succeeded to remove the damage and to protect the labor rights of the complainants.

## **Environment**

The Ombudsman in the field of environmental protection had few complaints, despite the problems with air pollution and waste management that were current in 2014. In the reporting year, the most numerous were the complaints from citizens regarding increased noise levels. Acting on these complaints, the Ombudsman requested by the authorized inspectors to take measures to improve the situation, in which customs checks have reported that noise does not exceed the permitted level.

The citizens reacted to the illegal dumps along the riverbeds, as well as the regional roads. After the Ombudsman’s intervention, the competent inspection and utilities have taken actions and the dumpsites were cleaned. During this reporting year, several complaints were submitted regarding the discharge of waters from septic tanks through yards or public areas, with the risk or danger of getting infectious diseases. The authorized environment inspectors conducted an on-site inspection and brought acts that ordered the applicants to immediately stop the discharge of the waters.

The Ombudsman, besides acting upon complaints, followed the general conditions in the field of environment. It was noted that local authorities provide the rights of the citizens for the protection of the environment in an insufficient manner, i.e. the citizens lack information on the extent of environmental contamination, nor have the opportunity to participate actively in the field of adoption of policies regarding this issue. By recognizing the activities undertaken by the



local authority, it was found that educational activities for citizens in a healthy environment are not taken, although the local authority has powers to independently shape its policy in this area and to provide better protection environment locally.

Namely, in 2014 several activities were undertaken by the competent ministries and citizens' associations which the Ombudsman welcomes and supports, however such actions need to be taken continuously by local authorities, which will include measures first in the education of the population on the importance of the right to live in a healthy and clean environment, then promote it, as well as in an action that would be widely accepted.

The local government should provide sustained program of environmental protection, encompassing both human and financial resources that will provide the necessary equipment to public utilities which should regularly collect and take away the waste from the homes of citizens, but also from the public spaces. At the same time the municipality administration through professional and effective inspection services which will continuously be on the ground to monitor and impose sanctions on any violator, without selectivity, has its role in ensuring the right to a healthy environment without waste around them.

The Ombudsman, in terms of providing a healthy and clean environment, indicated to the local authorities the need to build regional landfills which will reduce the possibility of creating new dumps. Furthermore, the Ombudsman pointed out the commitment the municipalities have for establishing a regional centre for waste management in accordance with the amendments to the Law on Waste Management, in order to protect the right of citizens to a healthy and clean environment.

This reporting year, the situation with polluted ambient air was alarming, particularly in Skopje, Bitola, Tetovo and Kichevo. Although, according to the local authorities, the solution of this problem should be brought by the central government which has jurisdiction with the large industrial facilities located within their territory and which are the biggest polluters of air, however, according to the Ombudsman, the local authorities should also continuously take measures and activities aimed at overcoming or reducing this problem. The Ombudsman considers that the local government cannot disclaim tackling the air pollution, but rather should jointly and coordinated with the central government overcome this situation and take active measures to prevent pollution. In this regard, it can be pointed that the municipality of Bitola for a longer period does not have units for air pollution, i.e. they are not in use, and this municipality is facing a long period of high levels of air pollution. The local government in the reporting year did not take measures to overcome these situations citing lack of jurisdiction, nor put the measurement stations into service. Hence, for this state of inaction by the municipality of Bitola, there was a reaction by the civil society which organized protests for healthy and clean environment.

The local government in Tetovo in the field of air pollution has adopted several documents about the measures that the municipality should take in short and long term plan in order to reduce the maximum level of pollution of the ambient air and to improve the quality of life for the citizens of Tetovo. In addition, the municipality of Kichevo adopted a short-term action plan for the protection of ambient air from pollutants due to multiple overcoming of their values, as well as the existing risk that will continue to exceed the limited values. The short-term measures taken by the municipality of Kichevo are based on the recommendation by the Inters-department group for air, and are in accordance with the responsibilities of the municipality.

Given this state of pollution of the ambient air, the Ombudsman points out that to solve the problem with which the citizens are faced and which represents a direct threat to their health, it requires a serious commitment by all relevant institutions both on local and central level and to take specific, effective, feasible and sustainable measures to resolve it.

## Finances

The Ombudsman in the reporting year followed the situation of the finances in the local government, but also acted on complaints from citizens that were in smaller number.

A citizen from Ohrid contacted the Ombudsman because of unfounded delay of the procedure for deciding upon the complaint of an objection of the resolution from the municipality of Ohrid, Tax Division. After the intervention of the Ombudsman, decision was taken by the municipality about the complaint and submitted to the complainant.

The Ombudsman acted upon a complaint by a citizen of the Municipality of Tearce, who complained that the municipality administration fails to act on his request to put the decisions on property tax in his name, as long as he does not pay the property tax for the period from 2001 to 2010 for the house he inherited from his late mother. The Ombudsman informed the petitioner that according to the Law on Property Tax, on inheriting the property of his late mother, the tax liability for the heir and the collection of the determined commitment will be made up to the value of the inherited property. The Ombudsman pointed to the institute obsolescence for calculating and collecting the tax provided for by law, to which the citizen should be called upon, if the municipality administration did not prove that in this period of 14 years, it took action for payment of the tax, in which manner it interrupts the obsolescence of the tax claim.

The Ombudsman received a complaint against the municipality of Delchevo, in which the applicant complains that the municipality rejects the filed tax return for tax on sales of real estate and therefore does not adopt a decision regarding the clause - a certificate that he is exempted from sales tax. Consequently, the complainant cannot record ownership in the real estate cadastre. In dealing with the complaint, the Ombudsman concluded that the case is a matter of real estate - house, for which the applicant of the complaint acquired the right of ownership on the basis of a court verdict from the Basic Court in Delchevo. With its judgment the right of ownership of the respective property - house was recognized, based on building it with his own funds. The acquisition of real estate ownership - house based on the fact that he built it with his own funds, is not a transfer of title with and without compensation or any other form of acquisition of real estate between legal and physical entities, which according to the Law on taxes is not subject to sales tax. This was the basis upon which the municipality did not act upon his request for determining the tax on real estate. The Ombudsman established no violation of the complainant by the municipality and directed the applicant to realize the right of registration of ownership in the real estate cadastre by showing the verdict, which was done by the cadastre.

The Ombudsman acted upon a complaint for Delchevo municipality in which the applicant pointed out that there was an improper debt for a property tax that was already paid, but because of tardiness in keeping records of tax collected by the municipality administration, he is still considered as a tax payer which blocked his bank account. Acting upon the complaint, the Ombudsman asked the mayor to take actions and measures for financial adjustments of payments made by the complainant and the debts with property tax recorded in the municipality. The Ombudsman noted that in the financial adjustment and determination of debt, special attention should be paid to the right on obsolescence for the recovery of tax claims. The mayor of Delchevo municipality informed the Ombudsman that in the presence of the complainant the financial card was examined, and it was concluded that entry was made for all payments for property tax. The transaction account was blocked by a decision for enforced collection of property tax for unpaid taxes from 2003 to 2010. Given that only part of the tax debt was settled in 2012 by the municipality, this adopted decision will be corrected.

The Ombudsman received other complaints, of which content is not derived that the same rights are being violated by the municipality administrations, because the citizens were informed about their rights and obligations in the area of tax administration, the manner and procedure of determining and collection of taxes and utility fees.

The area of finances managed by the local government includes the income from property taxes, the utilities and the administrative fees, while the revenues from value added tax and from the personal income tax are additional taxes which the central government transfers to the mu-

municipalities. Local authorities give an opportunity to the taxpayers to pay the property tax quarterly, which on one hand is a relief for the taxpayer, and on the other hand thus provides greater payment. The Ombudsman believes and expects that in future the local authorities will continue with intensive performance in terms of transferred authorities for urban land management and treatment of the illegally built facilities on construction and agricultural land which procedures imply additional sources of income for the municipality budget.

By following the general situation in this area, the Ombudsman noted that the tax capacity of municipalities to administer the revenues from year to year increases, and each fiscal year the number of municipalities that fail to charge a high rate of tax is increasing. Although tax collection is a major way of financing local authorities, there is still a need to find solutions for people who are at social risk, and as an example we need to point out the Council of Kumanovo where it is proposed to consider and analyse the possibility of exempting citizens who are at social risk from payment of local taxes because of the difficult economic and financial situation in which they are in.

The Ombudsman in this regard welcomes and supports this idea and appeals to all other local authorities to consider this opportunity as a way to help citizens who are at social risk.

## Consumer rights

Following the general situation in the area of consumer rights at the local level, the Ombudsman concluded that the organization and delivery of utilities, similar to other jurisdictions, directly depends on the financial condition of the local government. The state of public utility enterprises founded by local government is more critical, given that nearly all dispose of old machinery, old cars, and financial debts. Due to the poor financial situation of public utilities, local governments subsidize their operations. In some municipalities, there is an incompletely coverage of the delivery of utility services (water supply and sanitation, waste removal and disposal, public street lighting) that in urban municipalities (cities) is much greater, as opposed to the rural municipalities.

Most of the complaints in this area were about the warnings to the citizens submitted by municipalities requiring debt collection for unpaid water supply, sewerage, waste collection, under threat of forced collection. Acting on complaints of these citizens, the Ombudsman concluded that it is asked for paying the debt for more years, although most of the debt, especially the older ones were not sued by enterprises. Such action, according to the Ombudsman is unacceptable and he indicated to all utilities that their obligation is to respect the Law on Obligations, according to which in one year the demands for compensation of delivered electricity and thermal energy, gas, water, chimney sweeping services and maintenance of cleanliness are out dated when delivery or the service, is performed for the need of the household.

Taking into account the stated legal provisions, the Ombudsman pointed to the fact that with this kind of behavior, there is a continuous violation of consumer rights of the citizens and the threat of enforced collection of debt brings them in a state of confusion and the possibility of the citizens to pay debt which are not obliged to pay. The public companies acted upon the instructions and did not require payment of debt for the citizens for whom the Ombudsman conducted proceedings.

Regarding the complaints, where after the actions it is noted that the companies initiated legal proceedings, the Ombudsman addressed the competent courts and sought information on the stage of the court cases. From the feedback, it was concluded that the bulk of judicial proceedings were stopped, or other persons appeared as sued individuals, after which the citizens were informed that they have no obligation to settle such claims that were previously sued. In cases relating to claims older than one year, or duly filed litigation, the Ombudsman indicated to the citizens of their legal obligation to settle the claims regarding the utility fees.

The Ombudsman in the reporting year acted on several complaints related to utilities. Acting on a complaint filed by a citizen against JPKD Komunalec Strumica based on conditionality for

the exemption of funeral expenses of a family member, with previous payment of overdue debt for water and waste of the complainant, the Ombudsman was informed by the company that it does not conduct funeral services anymore. The company informed that the complainant has debt for utility fees for 2002 and 2003, for what he has been informed many times.

Regarding the funeral services, the enterprise relied on the decision of the Municipality Council to abolish the right to subsidize the funeral expenses of the citizens, after which the validity of the agreement for funeral expenses ceased and it no longer produced any legal action. More precisely, after the stated decision of the Municipality Council, the water bills of the enterprise are no longer taking into account and charging money for the funeral expenses. Now citizens themselves bear the costs of funeral services by signing agreements with legal entities that are licensed to perform such services. By informing the complainant of all this, the Ombudsman pointed to the expiration of the claims for communal fees which lapse for payment after the expiration of one year from when they should be collected, indicating that if there is no court procedure initiated for these claims, no legal obligation will reimburse them.

A citizen from Shtip, in the submitted complaint, asked the Ombudsman for an advice of a way that could solve the problem he has with the utility enterprise PE "Isar" Stip. Namely, based on an agreement for funeral services between PE "Isar" and his sister, the funds established for this purpose in the monthly bills for water consumed, are paid. But after the death of his sister, their mother continued to pay the funds, although no agreement had been concluded, nor the funeral services provided by the abovementioned agreement were done by the PE "Isar". At the same time, the enterprise initiated a procedure for collection of outstanding debts for unpaid utility charges for water consumed. The complainant did not submit the agreement he urged for, therefore, the Ombudsman was unable to ascertain the actual situation, and in this direction it advised the citizen to address PE "Isar" Shtip in order to reach an agreement of compensation with the collected fees, for funeral services by an entity which has not concluded an agreement, as he claims. Furthermore, the Ombudsman pointed out that the person, besides the obligation of paying the unpaid utility charges, has the right to demand recovery of funds collected for funeral services in a court procedure.

Another complaint was submitted to the same enterprise, requesting compensation for the collected funds based on funeral services that the enterprise no longer performs, with the enterprise's claim of unpaid utility charges from the complainant. The Ombudsman informed the citizen about the legal possibilities at his disposal, meaning if no agreement is reached he is entitled to legal proceedings which would require a return of the collected funds for funeral services that the enterprise cannot perform.

On this basis, a complaint to the Ombudsman is submitted by a citizen from Kochani. After reviewing the records attached to the complaint, the Ombudsman concluded that since 1996, agreements were concluded between the utility enterprise CPE "Vodovod" from Kochani and interested residents from Kochani, for payment of funds to be used for funeral conditions. Such agreements were based on solidarity and voluntary basis. This kind of solidarity fund was used if needed by the citizens. Due to the legal amendments, that made public enterprises not to perform the funeral services any longer, the Board of Directors of the enterprise in 2013 adopted a decision for regulating the obligations arising from the termination of the signed contracts. The way of reimbursing the citizens who have not used the service is also regulated by the decision. Regarding the abovementioned, the Ombudsman pointed to the complainant that if the funds from the agreement are not used, he has the right to choose one of the ways for reimbursing, as referred to in the Decision of the Board of Directors. Because it is an obligatory agreement between the citizen and the public enterprise, the Ombudsman informed the citizen that the Municipality Council has no legal basis to undertake any action on this issue.

The Ombudsman received complaints on the basis of unfounded payment of fee for street lighting which is not conducted in their street, village or region. Acting upon these complaints, the Ombudsman was informed by the Municipalities that the complainants cannot be exempted from this fee because in this settlement, village or region a system of street lighting already existed, but a network of street lighting should have been extended, or that, this village or area belongs to a certain Municipality that has a system of street lighting. The Ombudsman cannot



agree with the attitude of the Municipalities for borrowing the complainants with communal fee for street lighting service that they do not use. This report year, the Ombudsman pointed to the Municipalities that, in accordance with the law, the obligation to pay utility fees occur at the time of exercising the right, or the service for which a payment of fee is prescribed. Because the Municipalities failed to act on the Ombudsman's implications for such unlawful collection of utility fees for street lighting, it advised the citizens - the complainants to demand protection of their right before the competent courts. This is because of the incomes, that the Municipalities receive from payment of the utility fee of citizens in settlements or parts thereof where practically there is no public lighting, and since it has no legal grounds, as such, it is defined as an unjustified enrichment of the Municipalities according to the Law on Obligations. Precisely on this basis, the Ombudsman indicated to the complainants to demand restitution of what they paid in the past years in this respect in court proceedings before the regular courts.

Citizens complained to the Ombudsman about an obstruction of their rights to be connected to the water network. In these proceedings, the Ombudsman did not find violation of the citizens' rights by the utility enterprises, because the citizens previously had an obligation to undertake certain actions (eg. excavation and provision of pipe flow of water from the water supply to their building) that were not conducted. Simultaneously, the buildings that require connection to the water network were built without a building permit, therefore, according to the law they cannot be connected to the water network, or there were property - legal barriers or lack of consent from the neighbors to give permission for connection through their property.

On the basis of several complaints from citizens of the Municipality of Kumanovo who are facing with problems of (non) functioning of the sewage system, the Ombudsman acted on the complaints and asked for a report from the local government. The municipality of Kumanovo informed the Ombudsman that it is familiar with the problem of the citizens, and that the reconstruction of the sewage system in the mentioned streets is envisaged in the Programme for organisation of the construction land, construction and maintenance of communal infrastructure of the city of Kumanovo and the construction and reconstruction, maintenance and protection of local roads and streets. Simultaneously, the response stated that the undertaking of actions depends on the funds available. According to the Ombudsman, this explanation for overcoming this particular problem, and others alike, is unacceptable because the local governments should timely react on resolving the problems that citizens encounter, to provide actual needed funds, to conduct sustainable programs and decisions but not to be merely formal programs and administrative acts most of which cannot be realized as they are aware of it themselves.



## EXAMPLES FROM PRACTICE

### NP no. 1894/14

*The complainant from Skopje, aged 63, as a user of the social protection with a decision from the Centre for Social Work, has the right to a subsidy compensation for consumed energy; however, the funds were not paid although a year has passed after the act was adopted.*

*After examining the case and determining that there are no objective obstacles to exercise the right, the Ombudsman asked the Ministry of Labor and Social Policy as well as the competent centre for social work to undertake measures for reimbursing the funds on behalf of a subsidy for energy. The request was accepted and the complainant received the funds.*

### NP no. 74/14

*Acting on a complaint related to an appeal to the Ministry of Labor and Social Policy, the Ombudsman referred to the mentioned body indicating the violation of the right of the citizen by the Centre for Social Work, because it was acted contrary to the Law on Social Protection, according to which it is a duty of the Centre to inform the user of the need for re-examination two months before the fixed deadline for re-assessment in order to determine the need for assistance and care from another person, which in this case has not been observed.*

*The Ministry of Labor and Social Policy informed the Ombudsman that it complied with its recommendations and the case was returned for further deliberation, after which the Centre adopted a decision to exercise the right.*

### NP no. 3556/14

*A citizen from Tetovo filed a complaint in which he pointed to the delay of the proceedings before the administrative court-Skopje, after filing an appeal against a decision of the Citizenship Department at the Ministry of Internal Affairs.*

*During the procedure, the Ombudsman stated that the reason for the delay of the procedure is that the Citizenship Department has not submitted a response to the complaint and the documents of the case, although the respective court was asked on two occasions to undertake actions in that regard.*

*After the Ombudsman's intervention, the case documents, together with the response to the complaint were immediately submitted to the Administrative Court by the Department of Citizenship.*

**NP no. 835/14**

*A citizen from Bijelino - Bosnia and Herzegovina, filed a complaint stating that his rights were violated by non-payment of the pension from the competent authority for pension insurance in Skopje.*

*The Ombudsman contacted the representatives of the Fund for Pension and Disability Insurance of the Republic of Macedonia, pointing to the violation of the right of the party by stopping the payment of the pension. In addition, it asked to immediately undertake measures for payment of the retained pensions and its further payment, after which the party also undertook measures by submitting a certificate of life, and to expedite the proceedings, the competent authorities paid out the retained pensions for a short period of time.*

**NP no. 2624/14**

*A citizen from Skopje submitted a complaint to the Ombudsman stating that after the completed hospital treatment at the PHA University Clinic of Cardiology in Skopje, he was not issued a discharge letter due to unpaid costs for provided health services.*

*The Ombudsman acted on the case by sending a letter addressed to the PHA University Clinic of Cardiology to establish the actual facts, which found a violation of the rights of the complainant. Also, the Clinic confirmed the allegations of the complainant that the same has not been issued a discharge letter because it had not paid the costs of the provided health services.*

*To overcome this situation, the Ombudsman submitted a written indication to the Clinic, pointing to issue a discharge letter to the complainant in the shortest period of time in order to timely continue his treatment. Also, the clinic was told that such conduct is unlawful, and that there are other legal measures that can be applied for debts of the recovery of funds for medical services.*

*The Ombudsman's indication was accepted by the Clinic of Cardiology and the complainant was issued a discharge letter.*

**NP no. 2533/14**

*A citizen from Ohrid submitted a complaint to the Ombudsman for the Ministry of Health which failed to act on a judgment of the Administrative Court in 2011, by which his claim was granted, while the disputed decision is annulled and the case was returned for further deliberation of the second instance competent authority.*

*The Ombudsman addressed the Ministry of Health, pointing to the violation of the rights by failing to act on judgment of the Administrative Court and the competent authority recommended within its powers to immediately act after the judgment and take a lawful decision, according to the judgment of the Administrative Court.*

*The Ministry of Health has accepted the Ombudsman's indication and adopted a decision by recognizing the citizen's complaint and returned the case to retrial at the first instance authority in Ohrid.*

*Because of its prolonged failure to act, the Ombudsman pointed to the Health Insurance Fund Regional office- Ohrid to timely act upon the decision of the Ministry and to bring a decision on the citizen's request, following the guidelines of the Ministry's decision.*

*The Health Insurance Fund Regional Office - Ohrid has accepted the Ombudsman's indications and brought a decision to accept the request of the party and paid out his funds for the costs incurred for health services in the shortest period.*

**NP no. 2611/14**

*A primary school teacher filed a complaint to the Ombudsman seeking protection of his labor rights to exercise the right to extend the contract of employment after turning 64 years of age. Within the legal timeframe, the complainant submitted a request / statement to the school principal to extend the contract of employment after turning 64 years of age, after which the school principal brought the Act in which it rejected the request of the teacher.*

*Realizing all the exposed facts and evidence, and taking into account the provisions of the Labor Law, the Ombudsman found illegal actions by the director of schools, and indicated the second instance authority which decided on the complaint of the petitioner.*

*In the legal deadline, the second instance authority reported that the Ombudsman's indication is fully accepted, and the complainant exercised his legal right to extend the contract of employment.*

**NP no. 3001/13**

*The Ombudsman initiated a procedure on its own initiative to protect the rights of a minor child who was taken away from their parents, by the Centre for Social Work and it was placed in an Institution for children.*

*After the Ombudsman's intervention and indication that the best interests of the child is being cared for out of an institution, and to monitor how parents perform their parental rights, the professional team has changed the form of the care of the minor child and accepted the request on the closest relatives that the child will be taken care of by his grandparents instead in an institution for children, while, as decided, the parents of the minor will be put under supervision regarding the manner in which they perform their parental rights.*

**NP no. 751/14**

*A citizen filed a complaint stating that she has timely and within the legal timeframe appealed two decisions through the Ministry of Education and Science to the State Commission for deciding in administrative procedure and the procedure for employment in second instance, for which there is no response. Acting upon the complaint, the Ombudsman found that the complaints were filed in April 2013, but the complainant received no reply to any of them.*

*In order to exercise the rights of the complainant, the Ombudsman asked the competent second instance authority to act on the two appeals as soon as possible and to rule by bringing a decision.*

*After the intervention of the Ombudsman, the appeals were reviewed and a decision was made by the Commission, thus the citizen exercised her right.*

**NP no. 2763/14**

*A citizen filed a complaint to the Ministry of Education and Science stating that in April 2011 he submitted an Application / Request for one-off financial assistance in the preparation of a Master's thesis. The applicant stated that he has duly submitted the documents to the competent person at the Ministry of Education and Science, where he was told in a conversation that he meets the requirements. Furthermore, he repeatedly tried to contact the competent persons and was again told that the funds will be paid, but it was not known when.*

*Given that a longer period of time has passed and yet the applicant has not received a report, nor the funds were paid out for the master thesis, the Ombudsman took actions and addressed the Ministry of Education and Science and asked for an immediate payment of the funds to the citizen, and not to hinder the exercise of the rights. After the intervention of the Ombudsman the citizen exercised his right.*

**NP no. 2827/14**

A citizen employed as a guard in an institution in the field of culture, submitted a complaint to the Ombudsman for violation of his employment rights, concerning non-payment of compensation for night work.

After considering the actual situation, as well as the laws and bylaws regulating the payment of compensation for night work, the Ombudsman found numerous irregularities in the adoption of internal regulations due to non-compliance with the Labor Law the Statute of the institution, as well as disrespecting of the acts adopted by the previous management.

In order to resolve the subject status and the harmonization of the adopted acts with existing laws and bylaws, the Ombudsman gave precise guidelines and suggestions for correcting the irregularities with the purpose of normal functioning of the institution. The Ombudsman's indication was accepted; therefore the complainant exercised his right.

**NP no. 1688/14**

A citizen from Skopje, addressed the Ombudsman with a complaint requesting protection of her rights and her children stating that although she has notified the professional team in the PI Municipal Centre for Social Work, no measures were undertaken to protect the right of personal relationships and direct contacts with her children.

Acting upon the complaint, the Ombudsman asked the Centre to undertake measures for proper determination of the actual situation and smooth implementation of the right of children to see with their parent with whom they do not live, unless the professional team decides that it is not in the best interest of the children. At the same time, it was requested a decision to be made on the request of the parent with an appropriate legal basis.

The Municipal Centre for Social Work has notified the Ombudsman about the findings on the case of the complainant, and among other things, it has notified that an Agreement was reached between parents for regulation of the personal relations and contacts of the two minor children with their mother, and that the mother confirmed that the meetings with her children are going without a problem, regularly and smoothly.

**NP no. 2140/14**

Due to an irregularity in operation and violation of the constitutional and legal rights of the Department of Real Estate Cadastre in Berovo, a person from Berovo filed a complaint to the Ombudsman.

Namely, the complainant stated that although she and the other designated persons were listed as holders of the right of ownership of some the real estates, in CM in Berovo, they were deleted from the cadastre, for reasons unknown to them.

Acting in the context of the complaint, the Ombudsman, among other things, asked the Department of Control and Supervision to undertake action to inspect and control the legality of the actions of the Department of Real Estate Cadastre in Berovo.

After the undertaken activities, the Department submitted a written reply, according to which "an oversight in recording has been made to the holder of the right to property by the Department"

However, the ex officio intervention of the Ombudsman, to undertake actions to eliminate this situation and to determine responsibility for the cadastral officers and senior officials, which have made such "accidental omission" in the recording is not accepted, although the director of the Agency for Real Estate Cadastre in Skopje was personally informed of the case.



### NP no. 1333/14

A citizen from Skopje filed a complaint for violation of the right to ownership of the Centre for Real Estate Cadastre Skopje, and a procedure for registering a change in the real estate cadastre for CM Trubarevo.

In particular, the applications for registration of change in the real estate cadastre for the respective CM were denied by the Centre for Real Estate Cadastre Skopje, by giving extremely contradictory and vague explanations, and the applicant was constantly indebted to submit new evidence and requests.

Given this situation, the Ombudsman asked the Agency for Real Estate Cadastre to re-examine the legality of the actions of the Centre for Real Estate Cadastre Skopje, in the context of the procedure.

In particular, the right of ownership in respect of the property for which the applicant sought to be registered in the cadastral records stems from an effective and executive court decision, rendered at the competent civil court, by which the Republic of Macedonia, as being sued, is obliged to suffer change so that the right to property shall be entered on the legal predecessor of the relevant citizen.

The Cadastre implemented a new procedure, but again it issued a certificate for rejecting the application which allegedly is due to inappropriate data.

### NP no. 881/14

A complainant from Skopje filed a complaint stating that the Ministry of Transport and Communications, as her employer, violated her rights by lack of payment of contributions to pension insurance and extended duration.

After studying the case and the party's assessment that there is an act issued by a competent authority for an established longer length of service for a determined physical damage by 70%, the Ombudsman pointed to the violation of the rights of the complainant and asked the Ministry of Transport and Communications to undertake measures for protecting her rights by surcharging on contributions in accordance with the law, after which the complainant was paid the retained funds.

### NP no. 2605/14

The Citizen I.S. from Skopje, filed a complaint to the Ombudsman, requesting an update of the procedure for verification of the validity of the building permit, in order to register the real estate rights before the Agency for Survey and Cadastre, i.e. a procedure for determining the legal status of the housing building.

Acting upon the complaint, in order to protect his rights, the Ombudsman addressed the Mayor or the Department for Urban Planning at the Municipality of Kisela Voda, requesting undertaking of measures as soon as possible for legal and more accurate treatment. From the received report and documentation, the Ombudsman concluded that the body immediately acted upon the Ombudsman's request, and after the further undertaken actions managed to obtain the necessary documents from the State Archives of the Republic of Macedonia, Regional Department Skopje, which placed a clause for the validity of the approval for building and the same was collected by the applicant.

### NP no. 2517/14

A citizen from Skopje stated that a longer period of time certain parts of the park "Zhena Borec" in the centre of Skopje have been used as a public toilet, which results into a significant environmental pollution, and that such situation presents a potential risk for the spreading of infectious diseases. Acting upon the complaint, the Ombudsman addressed the City of Skopje - Department for Communal Affairs, and demanded to inspect the specified site and undertake appropriate legal actions on the basis of established actual facts.

After the Ombudsman's intervention, the inspection body undertook necessary measures to overcome the pollution by doing a complete cleaning of the subject field, and in order to continuously maintain the environment condition, we were informed that the City of Skopje ordered the Public enterprises "Komunalna higijena", "Parkovi i zelenilo", as well as the services for order and inspection to be engaged in a constant control and supervision.



**NP no. 1553/14**

*A citizen from Berovo requested the Ombudsman to intervene on the occasion of an application for verification of contract to purchase an apartment, which was concluded between him as a buyer and BE Pelagonija r.o Skopje Economic Unit VII Building site Berovo, as a seller, and that the Mayor of Berovo has brought a decision, obliging him to unjustly pay sales tax on real estate.*

*Given the contents of the said complaint, the circumstances, and the submitted facts and evidence, the Ombudsman found that in this particular case, the material law, when a citizen is obliged to pay the relevant tax, is erroneously implemented.*

*Namely, according to the Law on Property Tax, the tax payer on the sales of real estate is a legal and physical entity- a seller of the real estate, while in exceptional cases, a taxpayer of this tax may be a legal or physical entity- a buyer of the real estate, only if in the contract of sale of the property is agreed for the buyer to pay the tax.*

*In addition, in the case, the content of the provision - Article 25, article 6 of this Act has not been taken into account, under which the tax on the real estate is not paid on the sales of apartments in social ownership, if the sales contract does not regulate whose obligation is to pay the tax.*

*Therefore, the Ombudsman indicated to the Mayor of Berovo to amend the decision, and to exempt the complainant of the tax on real estate.*

*The indication was accepted.*

**NP no. 1997/14**

*A person from Skopje filed a complaint stating that although he paid monthly for the broadcasting fee, the Public Revenue Office did not register-record the subject payments, so, again he has been registered for an outstanding debt in the new decisions for determining the broadcasting fee.*

*Acting upon the complaint, the Ombudsman determined that the specific reason why the party has a debt to the new internal code and is subscribed to the old internal code, is because there has not been a linking yet between the old and the new internal codes of the broadcasting fee.*

*Having this in mind, the Ombudsman sent a letter to the PE Macedonian Radio Television, recommending it to undertake measures for ex officio overcoming this situation.*

*The recommendation of the Ombudsman was accepted, and the complainant was transferred from the old to the new internal code of the broadcasting fee.*

**NP no. 3575/14**

*A citizen filed a complaint to the Ombudsman stating that on the 08.29.2014, employees from EVN Macedonia - KEC Vasil Glavinov, without previous notice and information, entered the yard of his cottage and committed logging of three evergreen trees, which were 40 years old.*

*Moreover, although in the meantime a longer period of time has passed, he has still not received a reply relating to the request for an explanation of the circumstances of the case and determining compensation.*

*For the purposes of correct and complete determination of the actual situation, the Ombudsman asked EVN Macedonia for submissions of reasons for entering the courtyard of the respective cottage and logging of three evergreen trees, which were 40 years old, what is the ground for this kind of treatment, why citizen-owner of the property was not properly informed about who and what actions have been taken after the specific request for compensation in the previous period.*

*And after a longer period of time, the Ombudsman still has not received the requested data, explanations, information and evidence from EVN Macedonia, nor the citizen is guaranteed the right to compensation for damages.*

**NP no. 3031/14**

*The citizen M.J. from Gevgelija filed a complaint to the Ombudsman because EVN Macedonia AD has not undertaken actions for changing the tariff in the system of keeping users' records.*

*During the procedure, the Ombudsman determined that EVN Macedonia violated the constitutional and legal rights of the applicant of the relevant complaint.*

*Namely, it is not disputed that the citizen, in the previous period, continuously submitted requests with such content to EVN Macedonia, but they have not been proceeded without any kind of an objective explanation.*

*In addition, from all other facts, circumstances and evidence being available, it is also indisputable that in this case, electricity is incorrectly and unfoundedly invoiced, according to an industrial tariff because it is about a consumer of the household category. Because of this, the concerned citizen unfoundedly suffered and still suffers adverse consequences.*

*Based on the above, the Ombudsman, using its powers, pointed to EVN Macedonia to undertake action in a manner regarding the subject measuring point, to instantly change its tariff in the system of users from industry category in the category of household.*

*The implication was not accepted, giving a formal excuse that the user must submit a new application and pay the required fees.*

**NP no. 1260/14**

*A citizen from Skopje, dissatisfied with the quality of goods, requested an intervention for protection of the consumer rights.*

*Acting upon the complaint, the Ombudsman concluded a violation of the Law on Consumer Rights and the Law on Obligations, because the purchased defective product was reported in the specified warranty period, and even after the undertaken measures it did not meet the basic usable features and the basic functions. In this situation, the Ombudsman asked the State Market Inspectorate to undertake an appropriate action with the store where the defective product was purchased, pointing out the legal possibilities that can protect the rights of the complainant, or to replace the purchased product with a new one or to return the amount paid for the purchased defective product.*

*The Ombudsman's implication was accepted and after the inspection of the complainant, the payment for the purchased defective product was returned.*

**NP no. 2338/14**

*A complainant from Skopje requested an intervention before the Skopje Sever AD Skopje, because he was in charge of accounts for payment of compensation for an engaged capacity (fixed part) from the compensation for heat energy and an apartment which is not for moving in and it is under construction-shell. At the same time, the debt was processed to an executor, by submitting a request for the execution.*

*Acting upon the complaint, the Ombudsman contacted the supplier and pointed to the specifics of this case and the need for an objective consideration of the actual situation in terms of exempting the complainant of payment of this fee, because it is for an apartment under construction and there cannot be a passive use of thermal energy. Simultaneously, the Ombudsman asked to undertake actions for withdrawal of the request for enforcement and an exemption from these duties until the moment when the apartment will be moved in.*

*The supplier has accepted the indications and after supervising the apartment and determining that it was a building under construction which is not moved in, the complainant was given a Confirmation that the apartment has no outstanding bills and analytical card from which it is clear that there is no recorded debt. Also, the application for the execution is withdrawn.*

**NP no.2685/14**

*Based on the acquired knowledge and the obtained photographs of several locations in the municipality of Chair, from which it was evident that there is a significant environmental pollution by garbage scattered around containers, on sidewalks and grassy areas, the Ombudsman formed a subject on its own initiative.*

*During the procedure, the Ombudsman addressed the Municipality of Chair - Communal inspection and demanded to inspect the specified area and undertake appropriate actions and measures based on their findings. After the Ombudsman's request, immediate necessary actions were undertaken, so that the situation on site was completely renovated, and the City of Skopje was also asked to strengthen the supervision of the public enterprises' operations.*

**NP no. 1608/14**

*A student of the Faculty of Philology-Skopje, from the group of Albanology, filed a complaint to the Ombudsman, stating that she was physically attacked by a colleague in the courtyard of the Faculty, after which the event was reported to the police station of general competence "Centar" -Skopje, and no information has been received about the undertaken measures against the attacker. Acting upon the complaint, the Ombudsman submitted a recommendation to this police station, recommending to submit an application, on official duty, to the competent court for determining the criminal responsibility of the reported person, and to simultaneously submit a written notice to the attacker for not threatening the complainant in the future and not allowing to come at the faculty, because in that way the one endangers the freedom of movement and the right to full-time studies.*

*The internal affairs authority has fully respected the recommendation of the Ombudsman, and despite the misdemeanor charges to the competent court, the attacker was called in the police station where he was warned not to threaten and not to disturb the complainant under the threat of other penal responsibility.*

*At the same time, in sanctioning the attacker within the faculty, he was imposed a disciplinary exclusion from the university for one academic year, without the right to take the exams in the September examination session.*

**NP no. 1700/14**

*The family of the missing person SH.J. from Skopje addressed the Ombudsman with a complaint, which despite registering at the police station they have not received a feedback on the measures undertaken to locate him.*

*After determining the actual situation, that the search unit at the Sector of Internal Affairs -Skopje, called an announcement of a local missing person but has not undertaken active steps to find the person, the Ombudsman pointed to all the organizational units of the Ministry of Internal Affairs, that they are authorized to implement measures for searching of missing persons, especially pointing to the measure that on the website of the Ministry there are no data and a photograph of the missing person in the section for missing persons.*

*In response, the Head of the Internal Affairs informed the Ombudsman that, ex officio, from the records of the Ministry, a photo will be set on the website of the Ministry and that the quest for the missing person is still in progress.*

**NP no. 3512/14**

*After receiving a complaint from the NGO for discrimination based on health care, a subject matter was formed and the PHI General Hospital in Ohrid was requested detailed information on the health treatment of the patient with a HIV infection. During the proceedings in the case, a visit of the institution was made in order to fully establish the condition, after which it was found that the patient, who stayed in the hospital for surgery appendicitis, was discriminated on the basis of health care, in that the HIV infection was not encrypted as required by the regulations in the field.*

*In order to overcome the situation as well as the further treatment of other patients who will be found the mentioned infection, the Ombudsman submitted a recommendation to the PHI General Hospital in Ohrid for consistent adherence to the provisions of Article 25 in conjunction with Article 19, paragraph 3 of the Law on protection of population from infectious diseases. Namely, this provision provides anonymity to HIV infection as well as mandatory marking of this infection with a code, as provided in the Rules on the manner and the form and content of the forms for reporting infectious diseases and microbiological pathogens. The recommendation was accepted.*

**NP no. 1866/14**

*Upon findings of sexual abuse of a minor by other minors in the Correctional Institution Tetovo which operates in Veles, the Ombudsman initiated proceedings by itself, and after the inquiry it found that the minor immediately reported the case to the competent services of the institution, but after the expiry of the extended period of time, nothing was undertaken in order to resolve the case, meaning that almost all competent services in the institution have evaded in the performance of their duties.*

*During the procedure, on the occasion of this case, certain shortcomings were identified in the Security Service and the Service for Re-socialization, and it was suspected that there was an attempt to cover up the case as a criminal offence. In this respect, the Ombudsman provided complete information to the Public Prosecutor in Veles regarding this particular case, which brought criminal charges against the commander of the Security Service and the manager of the Service for Re-socialization.*

*Having in mind the frequent sexual abuse among minors in the Correctional Institution, the Ombudsman has decided to perform a complete inspection in terms of the general accommodation conditions as well as the functionality of the institution. After the performed inspection, based on the found conditions, the Ombudsman came to certain conclusions on the basis of the general terms in the institution as well as the educational process, the health care of the minors and especially the lack of educational process.*

*Considering the concluded situation, the Ombudsman submitted a proposal to the Minister of Justice and the Director of the Directorate for Execution of Sanctions, for undertaking measures to overcome these situations.*



**NP no. 3758/14**

After receiving information on the deteriorated state of a person detained in the prison in Skopje, the Ombudsman initiated a proceeding on its own initiative. During the inspection at the Prison in Skopje, the detainee complained of inadequate prison conditions which reflected even more on his health condition, pointing out the necessity of its referral to a health facility for providing him an appropriate medical treatment.

During the proceedings on the complaint, the deteriorating health condition of the detainee was also confirmed by the prison doctor and the director of the prison, concluding that it is necessary for the detainee to be referred to a health facility, where an appropriate specialist examination will be performed.

In this regard, the Ombudsman asked the director of the institution to immediately initiate proceedings in order to realize such controls. After obtaining an approval from the competent court, the detainee was immediately taken to hospital and all necessary medical examinations were performed.

**NP no. 990/14**

A citizen from Skopje filed a complaint expressing his dissatisfaction from the actions of the Administrative Court of the Republic of Macedonia for an unjustified delay in the proceedings in his case.

The Ombudsman, from the notice of the Court referred to the complainant, found that the case was completed with the records a year ago, but that, according to court rules, it awaits the order to be taken into consideration in the regular procedure.

The Ombudsman concluded a delay of the procedure, therefore recommended to the Constitutional Court to undertake actions for realization of the right of the citizen for a trial in reasonable period.

The Court respected the recommendation of the Ombudsman and a decision was made.

**NP no. 2271/14**

A citizen from Skopje filed a complaint to the Ombudsman requesting an intervention because the competent services of the Municipality of Aerodrom and SIA Skopje police station of general jurisdiction Aerodrom removed both vehicles from the place where they were parked.

After the measures undertaken (consideration of the complaint and supporting documentation as well as addressing to the competent authority), the Ombudsman found that the vehicles were parked neatly and correctly in accordance with the granted Approval to the municipality for temporary use of parking space, for which it indicated to the PE "Gradski Parking" – Skopje and the police station of general jurisdiction "Aerodrom" to return the vehicles to the citizen.

As a result of the actions undertaken, the Ombudsman was informed that it was acted upon the indication and that the vehicles were released from the Spider service of the PE "Gradski Parking" – Skopje without compensation, and that the same ones were handed over to the citizen who filed the complaint.

**NP no. 2874/14**

A complainant from Skopje filed a complaint stating that the executor from Skopje issued a writ of execution against a claim to a bank account, by which her transaction account, where funds received on the basis of social assistance had been transferred, was blocked.

The Ombudsman addressed the executor and demanded to take care of protecting the interests of the debtor in the procedure of execution and hence requested to immediately unblock her bank account. Moreover, The Ombudsman pointed out that, according to the Law on Execution, the incomes that are realized on the basis of social assistance are exempted from execution, so the execution cannot be carried out by these funds.

The executor acted upon the request of the Ombudsman and submitted a request for stopping the execution of the payment operations carrier, so the transaction account of the complainant was unblocked, and the collection of receivables continued by other means of execution.



**NP no. 3675/14**

*A citizen from Veles, in a submitted complaint to the Ombudsman, pointed that the competent authority - the Department for Administrative Affairs in Veles in the Ministry of Internal Affairs revoked his German driving license seven years ago, and that despite his requests, it was still not returned.*

*The Ombudsman addressed the respective body and received a reply that this case cannot be handled because the license could not be found – it was lost.*

*Given this situation, the Ombudsman pointed to the competent authority that such action is not in accordance with the legislation and violates the rights and legal interests of the complainant, because there is no way, nor it is allowed to lose papers, documents and writings of the subject that are of official character and serve as a basis for exercising rights of the citizens.*

*In this regard, the Ombudsman asked the authority to undertake action in a manner of finding the case documents, together with the relevant license, and to immediately give them back to the respective citizen.*

*According to this intervention, the driver's license is found and returned to the complainant.*

**NP no. 2527/14**

*A citizen of a neighboring country with a dual citizenship, one of which is Macedonian, filed a complaint stating that he was discriminated and placed in a disadvantaged position in getting a place to stay in a dorm, despite the fact that he fully meets the conditions listed in the competition.*

*After considering the overall documentation presented by the applicant and the reconsidering of the legislative and subordinate regulations that govern the placement in dorms, as well as the executive inspection of the electronic application, the Ombudsman concluded a technical deficiency of the Ministry in implementing the competition via electronic application of candidates, or that the system did not provide an opportunity to choose a city abroad. In order to overcome the current issue, the Ombudsman requested detailed information from the competent committee which performs the scoring and approves the applications of candidates, by indicating the respect of the provisions on equal treatment of candidates in obtaining a place in the dorms.*

*After completing the entry period and the selection of students who, according to the Law on student standards, meet the conditions for accommodation in the dorms, the Ombudsman received a notice from the competent Ministry that it has been acted upon the Ombudsman request and indication, so the complainant exercised his right.*

**NP no. 3046/14**

*A citizen from Gevgelija filed a complaint for protection of the labor rights, stating that the employment procedure following an announcement in the Primary School "Krste Misirkov" in Gevgelija was not respected.*

*Acting upon the complaint, the Ombudsman addressed the State Educational Inspectorate and the Ministry of Education and Science and demanded a supervision to be carried out in the said school, indicating that if the allegations of the complainant are to be confirmed, measures for repeating of the procedure should be undertaken.*

*The State Education Inspectorate has carried out an inspection and ordered the acting Principal of the school to repeat the procedure for selecting a teacher in order to hire a person who meets the legal requirements for a class teacher.*

*The Ministry of Education and Science responded in writing to the acting principal of the school, the procedure was repeated and the complainant was employed as a school teacher.*

**NP no. 2457/14**

A citizen from Skopje filed a complaint to the Ombudsman, requesting an intervention because the Agency for Financial Support of Agriculture and Rural Development has not acted upon his request about direct payments from the Program for Financial Support of Agriculture.

Considering the findings of the citizens, the Ombudsman initiated a procedure and asked the Agency for notifying the reasons for not answering at his request and for not paying out the funds on the basis of the Program for Financial Support of Agriculture. Namely, the Ombudsman pointed to fulfil the conditions of undertaking measures for smooth exercise of the right of the petitioner.

Acting upon the request, the agency reported that it was acted upon the request of the citizen and that after an administrative check of the fulfilment of the criteria in the Programme for Financial Support of Agriculture was made, a decision for approval was issued and informed the citizen in writing for the decision itself.

**NP no. 975/14**

A citizen from the village Lojane, Lipkovo municipality, submitted a complaint to the Ombudsman, Regional Office Kumanovo indicating that in June 2012 he put out the house to lease to a third party and that together with the tenant have submitted a lease agreement to AD EVN – Kumanovo in order to change the user of the tariff meter. After this, AD EVN – Kumanovo agreed and signed an agreement with the tenant for using electricity.

After terminating the lease agreement with the tenant, the complainant asked AD EVN – Kumanovo to transfer the tariff meter on his behalf, but he was only verbally informed that first he was supposed to pay the debt for electricity.

Acting upon the complaint, the Ombudsman referred to EVN Macedonia with a request to undertake measures to change the user of the meter, or the same to be changed to the owner of the house, emphasizing that EVN Macedonia, according to the contract, should collect the debt from the former tenant.

Acting upon the request and indication, EVN-UEC Kumanovo executed the requested change, and the complainant exercised his right.

**NP no. 1319/14**

Spouses from s. Cherkeze- Kumanovo filed a complaint stating that they could not register their child in the Registry Book, because officials at the Department for keeping civil registers in Kumanovo refused to accept the request, because the mother of the child is not a citizen of the Republic of Macedonia.

Acting upon the complaint, representatives of the Ombudsman's Office conducted a review in the Administration for keeping civil registers in Kumanovo, and in a conversation with the Head of Department they noted that the data obtained from the General Hospital in Kumanovo are registered in the registry of births, but the parents, that is, the mother is not a citizen of RM and has no identification document.

The Ombudsman pointed out that the child was born in a public institution where the mother, who gave birth, is identified, and that the body in this case which is the Office for keeping civil registers cannot verbally refuse an accepting of the application. In this regard, it is requested to receive the application and to rule by adopting a decision for the proper procedure in order to smoothly protect the rights of the complainant.

The indication was accepted by the Head of Department, and it was agreed for the parents to apply for registration of the child, and the Administration to adopt a decision of the same.

### NP no. 3763/14

Spouses from Strumica filed a complaint demanding an intervention by the Ombudsman, because, despite they have been living together in the same household for 35 years and no changes have been made in the address nor in the personal data or marital status, both of them were obliged to pay broadcasting fee. The spouses appealed the decisions of the PRO; however, an answer was not received to the date of filing.

Acting upon the request and implications of the Ombudsman, MRTV-Skopje submitted a response that the case was reviewed, after which one of the spouses-the wife was deleted from the register of bonds for broadcasting fee, while the previous decisions of both spouses would cause no legal action.

### NP no. 536/14

A citizen from Gostivar filed a complaint to the regional office of the Ombudsman in Tetovo requesting an intervention due to double indebtedness of broadcasting fee, although his daughter possesses a medical documentation proving that she is a person with severe disabilities.

According to the legal competences, the Ombudsman addressed in writing the Public Revenue Office in Tetovo and the PE Makedonska Radio Televizija – Skopje, pointing to undertake measures to overcome the issue, or to release this family household from the obligation of paying the broadcasting fee, as well as to withdraw the already submitted Decisions for determining the broadcasting fee.

The Public Revenue Office in Tetovo and the PE Makedonska Radio Televizija – Skopje informed the Ombudsman in writing that their indication is fully accepted and the complainant is released from paying the fee.

### NP no. 1007/14

A citizen of Bitola, submitted a complaint to the Ombudsman in which he requested an intervention before the Basic Court Kriva Palanka for delaying the procedure for granting a clause of legal validity and execution of a court judgment. The complainant stated that in January 2014, upon a request of the court, submitted the respective verdict in a postal package, by obliging the Court to send it back with the clause of legal validity and execution enclosed. After the expiration of several months and repeated unsuccessful intervention of the complainant to expedite the proceedings, he turned to the Ombudsman.

After the procedure, the Ombudsman found an unjustified delay of the proceedings of the judicial service, therefore requested the Court to immediately act upon the request of the complainant and submit relevant subject verdict enclosing the confirmations for legal validity and execution.

The Court acted upon the implication of the Ombudsman and informed him about the date when the completed respective verdict with the required clauses was sent to the applicant or complainant. The complainant exercised his right.

### NP no 1742/14

A citizen from Bitola, on behalf of the residents of his street, filed a complaint requesting an intervention by the Ombudsman before the Municipal Inspectorate of Bitola, because they have not acted upon their request for the removal of an illegal and unlawfully placed iron ramp on the street, which prevents the normal flow of emergency vehicles.

Acting upon the complaint based on the provided evidence, the Ombudsman concluded that the respective ramp is unlawfully placed, which limits the right to free movement of vehicles and people in the street. After this, the Municipal Inspectorate of Bitola immediately asked for intervention by removing the same.

Acting upon the request of the Ombudsman, the illegal object was removed, which was confirmed personally by the complainant himself.

**NP no. 2216/14**

A citizen from Tetovo submitted a complaint to the regional office of the Ombudsman in Tetovo, stating that UEC (User Energy Center) in Tetovo EVN Macedonia Ltd –Skopje has not acted upon his request for a replacement of damaged electric pole and dropped meter.

Acting upon the complaint, the Ombudsman referred to EVN Macedonia AD Skopje and asked to be informed whether the electrical pole has been replaced, since the competent service noted that it is obsolete and needs a replacement.

Acting upon the request, EVN Macedonia AD Skopje sent a letter to the Ombudsman informing them that the competent services of UEC Tetovo committed certain activities on that place and the respective pole was replaced. After the intervention of the Ombudsman, the complainant exercised his right.

**NP no. 2/14**

A citizen from Skopje filed a complaint to the Ombudsman, Regional Office in Kichevo, against the executor of Ohrid for blocking the current transaction account, through which he receives money from special allowance for his daughter as a chronically ill person, on the basis of a decision of the PI Center for Social Work Skopje-Kisela Voda.

Acting upon the complaint, the Ombudsman-office-Kichevo concluded that it is an execution contrary to the provisions of the Law on Execution, after which it submitted a request to the executor demanding unblocking of the account of the applicant, indicating a violation of his rights.

The executor immediately acted upon the indication, and submitted a request to the bank for unblocking the transaction account by withdrawing the writ of execution, after which the complainant exercised his right.

**NP no. 2309/14**

A citizen from the village Odzhalija Karbinci, who is a user of social financial aid, filed a complaint to the Ombudsman seeking protection of the right to health care, because the Social Work Centre in Shtip cannot register him as a user in the Health Insurance Fund - Regional Office Shtip.

Acting upon the complaint, the Ombudsman inspected the Social Work Centre in Shtip and determined that the Health Insurance Fund has not issued an electronic health card to the complainant, because in the records of the Fund, this person has a health insurance as an individual farmer and that the same used health care personally, while his wife used it as a family member. As an individual farmer, the person regularly paid contribution to the Fund for health insurance until 2004, when the last payment was made.

During the inspection of the official who keeps records of registered farmers-users of health insurance, the Ombudsman indicated that it is necessary to warn the insured who do not make payment of health contributions, or in court proceedings requesting a payment of outstanding debt. In addition, the head of the regional branch of the Health Insurance fund indicated that it is about an ill and weak person at the age of 80, who is a recipient of a financial assistance based on their health insurance. In addition, the Ombudsman recommended to the Centre for Social Work to undertake measures and to call the complainant for deregistration of the health insurance on the basis of individual farmer and insuring him as a user of permanent financial assistance.

After the above mentioned interventions, the complainant informed the Ombudsman that he exercised his right and that he is a health insured and that a procedure for preparation of his electronic health card was initiated.



**NP no. 3528/14, 3533/14, 3534/14, 3535/14 и 353614**

*Teachers employed in the secondary school Jane Sandanski Shtip asked the Ombudsman for protection of their employment rights, because they received decisions from the school principal for reducing their salary in the amount of 15% for a period of 1 year, on the basis of the received report with the results of the external evaluation of the pupils achievements in secondary schools. The teachers filed a complaint against the decision of reducing the salary to the School Board, which submitted a conclusion that it is not competent to act upon them, citing the Law on Secondary Education and instructing them to protect their rights in court proceedings.*

*Having examined the submitted complaints and written evidence, the Ombudsman concluded that the School Board committed an infringement of the right to protect the labor rights of the complainants by an incorrect application of the Law on Secondary Education. In this respect, the Ombudsman indicated to the School Board that, according to the Law on Secondary Education, it is competent to decide on appeals and complaints of employees, and this competence is foreseen in the Collective Agreement for secondary education, according to which the school employees submit a complaint against the decision on the rights, obligations and responsibilities to the School Board, which is obliged to decide upon the complaint.*

*Indicating the above, the Ombudsman asked the School Board to reconsider the complaints of the applicants, and decide on them taking into account the facts and evidence attached to the complaints of teachers.*

*The School Board accepted the Ombudsman's indication, repeated the procedure and made decisions on the complaints, by which the dissatisfied teachers received a new deadline for submitting the complaint to the competent court for protection of their labor rights.*

**NP no.1531/14**

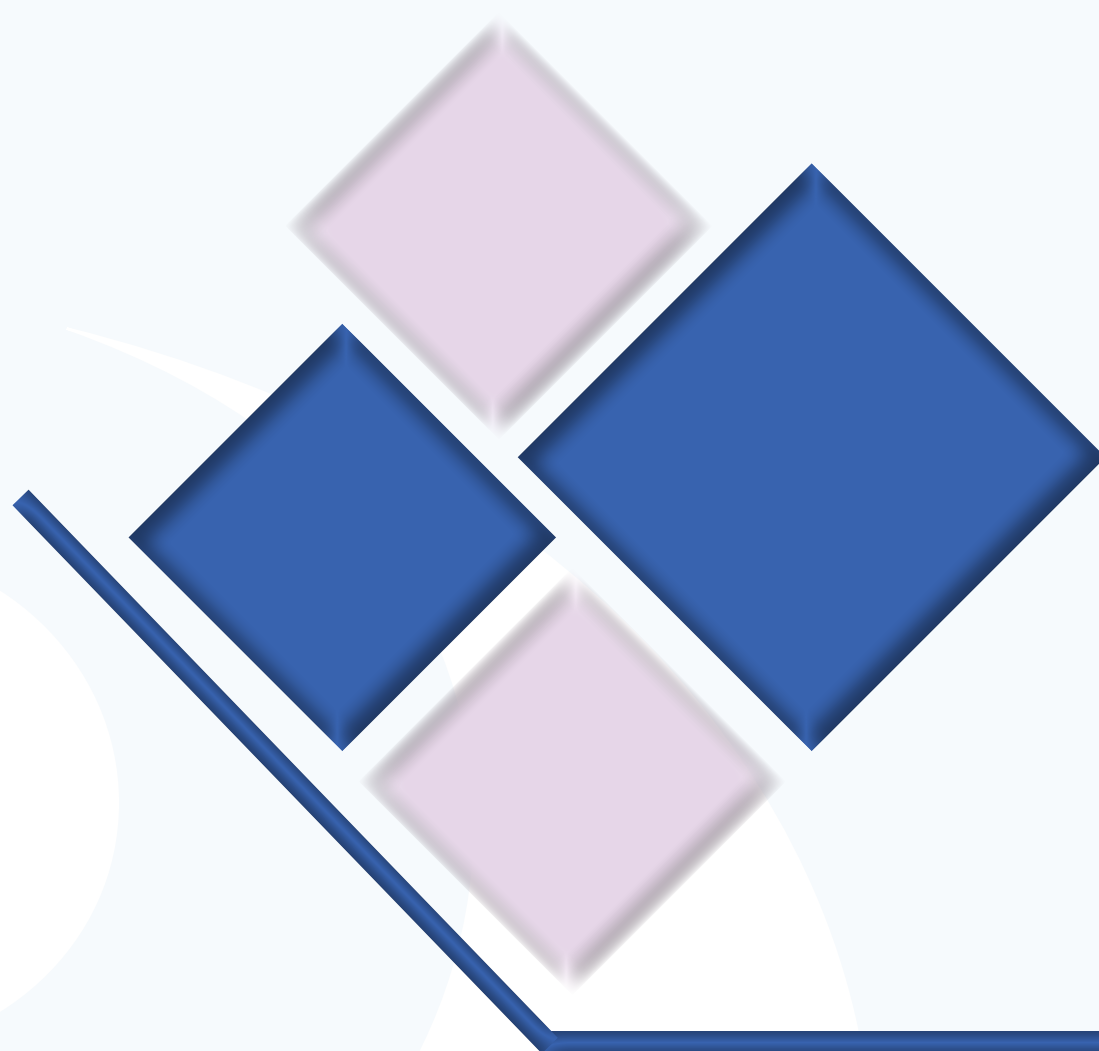
*A citizen from Kichevo filed a complaint for protection of rights to the Fund for Pension and Disability Insurance, due to an unjustified delay of proceedings on his request, for a retirement with a given proportional part of Macedonian and Serbian insurance.*

*After receiving the complaint, the Ombudsman's office in Kichevo addressed the above-mentioned Fund, which has given information that the decision on the request for retirement is waiting for the answer from the Fund for Pension and Disability Insurance of the Republic of Serbia for recognition of the service in the Republic of Serbia.*

*The Ombudsman once again addressed the Fund and the Department for International Agreements, indicating to undertake additional actions, or to submit an intervention to the competent authority of the Republic of Serbia.*

*After several interventions, a response from the Fund for Pension and Disability Insurance of the Republic of Serbia, for recognition of the complainant service, is received, after which the Fund for Pension and Disability Insurance decided on the request for retirement of the citizen.*





# **PROMOTION OF HUMAN RIGHTS AND FREEDOMS**

The promotion for the realization and protection of human rights and freedoms is of particular importance. According to the Ombudsman, it is important from two aspects, but at the same time it strengthens the awareness and knowledge of the citizens regarding the rights belonging to them for which they may require an appropriate protection. Therefore, in 2014 the Ombudsman continued to undertake activities in this field.

On the occasion of promotion of the Annual Report for the level of security, respect, promotion and protection of human rights and freedoms for 2013, as well as the annual report of the National Preventive Mechanism regarding the situation in places of detention, in 2014, the Ombudsman held a meeting with the ambassadors of several Member States of the European Union, the Ambassador and Head of Delegation of the European Union to Macedonia as well as the Ambassador of the United States. At the meeting, among other things the need to strengthen the mandate of the institution was emphasized as a precondition that will contribute for increasing the level of protection of citizens' rights.

In the reporting year, promotional events were undertaken by implementing several project activities, supported by several donors, including the Instrument for technical assistance and exchange of information on the European Commission-TAIEX. Regarding the promotional activities, three workshops were conducted, one of which is of a regional character and two study visits. Also, in 2014, for the first time, the institution has received a financial support by the Embassy of the United States to the Republic of Macedonia for realization of their project idea, with which, a two-day workshop was conducted in Ohrid.

The regional workshop was dedicated to the psychiatric institutions and the conducted supervision in them, aiming for protection from torture and inhuman treatment. The workshop was attended by representatives of all the National preventive mechanisms (NPMs) of South East Europe, as well as representatives of the Committee against Torture of the Council of Europe, the Subcommittee on Prevention of Torture of the United Nations and representatives of the National preventive mechanisms of the Member States of the European Union, Slovenia, Austria and Croatia. The conference was a forum for discussion regarding the competences of the National preventive mechanisms, when it comes to supervision of mental health care institutions and the treatment of persons detained in such institution, and in order to prevent torture and other kind of cruel, inhuman or degrading treatment or punishment. At the workshop, the standards were presented, emphasizing the means of restraint, as well as the treatment of vulnerable groups, the treatment of people with involuntary admission, and deinstitutionalization of persons with mental illnesses, and the standards of the European Committee for Prevention of Torture and the role of the Subcommittee on Prevention of Torture of the United Nations were also presented.

The first of the two national TAIEX workshops was dedicated to the long-standing problem that the Republic of Macedonia has with the denationalization, as well as the role of the Ombudsman in this whole process. Regarding this issue, besides representatives of the relevant stakeholders in the country, the workshop was attended by representatives of the Ombudsman offices of Bulgaria and Romania with their own comparative presentation.

The second national TAIEX workshop covered the topic of cooperation of the Ombudsman with the media. This workshop openly spoke about the benefits as well as the problems that the institution has in terms of communication with the media and the way they reflect on citizens, and all in order to protect human rights and freedoms. Besides the representatives of most of the media houses of the country, the workshop was attended by a representative from the office of the Austrian Ombudsman Board (AOB) and a journalist from the Republic of Croatia with their own presentation.

Not only did the events supported by this instrument of the European Commission contribute for the strengthening of the institutional capacity, but simultaneously enable transfer of the European experiences and practices, as well as the strengthening of the inter-institutional cooperation between the Ombudsman and similar institutions of the European Union.

In 2014, the Ombudsman also provided project cooperation with the Embassy of the United States in the country. Supported by the Embassy of the United States, a two-day workshop was implemented, covering two topics of a particular interest to the citizens of Macedonia, i.e. the protection of citizens' rights in the procedures of execution as well as the process of realization and protection of the right to vote. Representatives from all relevant institutions in the country attended the workshop with their own representation, while the conclusions of this two-day event provided for new project activities supported by the Embassy of the United States to Macedonia, that will be implemented in the future.

This reporting year, the Ombudsman cooperated with UNICEF which resulted with a creation and promotion of an interactive play for children with the objective to bring the children, aged 8 to 12 years, closer to their rights. Within this cooperation, a brochure of the Convention on the Rights of the Child was designed for children in a language which is easily understood by them. The brochure is available in Macedonian and Albanian language, while in the next period it will be translated into all other languages spoken in the country. Thanks to the support of UNICEF, the brochure will be printed and distributed to its final users which are the children in schools throughout the country.

Within the campaign for an introduction of the rights to social care, health care and insurance and pension and disability insurance to the marginalized groups of citizens as well as citizens from rural areas, the Ombudsman held meetings with citizens, at more locations throughout the country, in order to inform them on the manner and mechanisms of protection of their rights. At the meetings, the attending citizens showed interest in the presented topics, particularly those regarding the legal provisions regulating the old age pension, the payment of services by the personal doctor, the cash benefits for social rights, as well as for the implementation of the rights of others areas, especially the enrollment of children in the registers.

In this report in 2014, the Ombudsman promoted its competences in the area of the children's rights, to a group of pupils from the primary school "Kuzman Shapkarev" from Skopje.

On the occasion of November 19 which is the World's Day for prevention of any kind of abuse of the child, the children's ombudsmen from several schools in Kumanovo, Tetovo and Gostivar visited the office of the Ombudsman. Despite the introduction for the work of the institution, and above all, the work of the Department for children's rights and rights of persons with disabilities, the need for more frequent communication between the Ombudsman and the Children's Ombudsmen was highlighted in order to protect the children's rights better, especially the protection of children from violence and violation of their rights.

The problem with child drug users and their need for protection as a vulnerable category of persons was the topic of the debate in Skopje, which was organized by the Ombudsman and the NGO "HOPS".

The Ombudsman- the National Preventive Mechanism participated in a round table organized by the Programme Office of the Council of Europe within the framework of the project "Strengthening the capacity of the law enforcement for proper treatment of detained and convicted persons." Simultaneously, it took an active part in workshops for education of police officers, where the Ombudsman presented its role as a National Preventive Mechanism in the area of control over the treatment of the remanded and detained persons.

The National Preventive Mechanism participated in a round table organized by the Office of the High Commissioner for Refugees (UNHCR) and the Academy for Judges and Public Prosecutors which held a speech on "Mandate and recommendations for the places where illegal migrants and foreigners are deprived and temporarily retained". This event presented the findings and recommendations of the Ombudsman in terms of the need for implementation of the rights of illegal migrants during their detention, with a special emphasis on the retention of women and children and the need to ensure appropriate conditions of accommodation, which are established with the practice of the European Court of Human Rights.

The promotional activities in the reporting year were followed by the media and presented on the website of the Ombudsman, which enables greater transparency and information to both the citizens and the bodies of the state administration.

An abstract geometric design featuring four diamonds arranged in a cross-like pattern. The top and bottom diamonds are light purple, while the left and right diamonds are dark blue. A dark blue line starts from the bottom-left corner of the left diamond, extends diagonally down and to the right, and then continues horizontally to the right edge of the frame.

# **PREVENTION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**



In 2014 the Ombudsman - National Preventive Mechanism, in accordance with the powers of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, conducted 29 preventive visits to places of deprivation of liberty, out of which 14 were regular visits, 12 were follow-up ones, as well as 3 emergency visits in institutions where freedom of movement is limited.

As in previous years, this reporting year, the National Preventive Mechanism conducted visits to places of deprivation of liberty, which according to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment present any form of detention or imprisonment, or retention of persons in public or private facilities where persons are not allowed to leave voluntarily, but by order of any judicial, administrative or other body.

Within the regular visits, 5 police stations, 5 border crossings and the Prison Kumanovo were covered, while this year 3 homes for the elderly were visited. The follow-up visits were conducted in 5 police stations, 4 penitentiary-correctional institutions, 3 psychiatric institutions and during these visits, the level of implementation of the previous recommendations from the regular visits of the national preventive mechanism were assessed. Regarding the penitentiary-correctional institutions, control or follow-up visits were conducted in the Idrizovo Prison, Prison Shtip, Bitola Prison and Prison Prilep, as well as in the psychiatric hospitals in Skopje, Demir Hisar and Negorci.

Emergency visits were conducted in the Reception Centre for Foreigners and the Correctional Center Tetovo, and due to the serious and worrying situation of detention in these places of deprivation of liberty, special information was submitted to the competent bodies.

In 2014, the National Preventive Mechanism continued with the involvement of external collaborators from more profiles, thus enabling a multidisciplinary approach to the implementation of visits guided by the recommendations of the Association for the Prevention of Torture.

During the visits, experts were included from the Association of Psychiatrists, Society of forensic scientists at the Institute of Forensic Medicine, the Association for Criminal Law and Criminology, the Macedonian Association of Young Lawyers, the Association of Social Workers of the City of Skopje, while this year, the Association of nurses, technicians and midwives was also included.

In 2014, in addition to the standard visits to places where persons are deprived of liberty, the NPM conducted visits to open institutions as well, in order to determine the material conditions and the treatment of particularly vulnerable groups that have limited movement due to health or other reasons. From that point of view, three homes for the elderly were visited, where they checked the conditions in which the elderly are accommodated, as well as the health and social care that is given to these people which are considered as preconditions necessary for the humane and dignified treatment of elderly people, while the visits themselves were realized in the company of a social worker and a nurse.

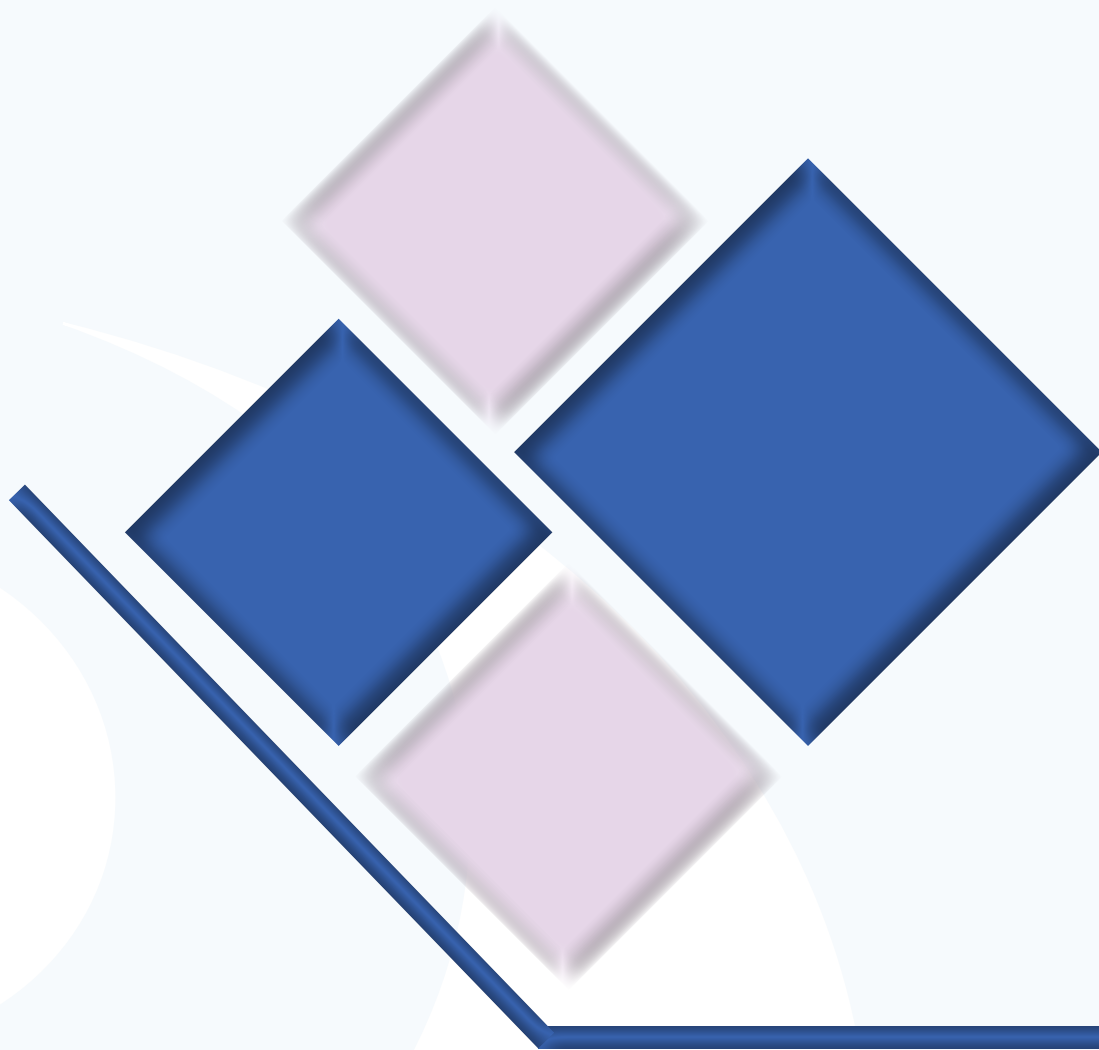
During the subsequent visits to the penitentiary-correctional institutions, it was noticeable that the overcrowding of facilities is still a major problem, and this is further affected by the renovation of the penitentiary Idrizovo. Due to the established conditions in this institution, the National Preventive Mechanism submitted a request to the management of the penitentiary-correctional institution and the Directorate for Execution of Sanctions to undertake immediate

measures for providing additional beds for all inmates, and after classification to immediately transfer the residents in the admission unit to the relevant departments in order to fulfil the purpose of the admission unit, as well as to reduce the possibility of proliferation of criminal infections, to provide adequate conditions for the organization of the teaching process, and to renovate the facilities where inmates with health problems are accommodated.

During the emergency visits that were conducted at the Centre for foreigners and illegal immigrants, as well as at the Educational-correctional Centre, a worrying situation in terms of material conditions were determined even in the exercise of the rights of the people who are accommodated there. In this regard, special information was sent to the relevant ministries to undertake immediate and concrete measures in order to ensure adequate conditions both for accommodation and for the exercise of the rights of the time during the arrest.

The National Preventive Mechanism presented the third annual report for 2013 which includes a special thematic section on the situation of the illegal migrants and asylum seekers. The report was presented on 25 June on the occasion of the International Day for Support of Victims of Torture. The annual report was submitted to all relevant authorities and competent ministries, as well as to the Subcommittee on Prevention of Torture of the United Nations, the European Committee for the Prevention of Torture and inhuman or degrading treatment or punishment, and to other international institutions for prevention and protection of human rights.





## **NOT-RELATED CASE OPERATIONS AND OTHER ACTIVITIES**

## **Research, Special information, Initiatives and views**

During 2014, the Ombudsman continued to actively monitor the situation in all areas in the society concerning the rights of citizens. In this regard, research was conducted and specific information was drafted for the findings, including recommendations for overcoming them, which was delivered to the competent institutions.

Furthermore, for all cases in which the Ombudsman assessed that the legislation is contrary to the Constitution, or that certain legal provisions create problems in exercising of the rights of citizens, a proposal to the Constitutional Court was submitted to assess the constitutionality of laws or initiatives for legislative changes.

The increased number of complaints filed, concerning the exercise of the rights of citizens as insured persons, was the occasion for the Ombudsman to conduct a special survey on how citizens exercise their right to health care and insurance.

Special emphasis was placed on the course of proceedings on the citizens' request about how it performs reimbursement of funds for conducted health services, requests for hospital treatment, orthopedic aids, maternity leave and so on. The survey was conducted on the basis of a questionnaire containing 18 questions which was delivered to 30 regional offices of the Health Insurance Fund and the Ministry of Health.

Based on the answers, the Ombudsman found several problems including that frequent changes in the legislation makes legal uncertainty among citizens, then that the cooperation between the Ministry of Health and the Health Insurance Fund is at a very low level, and that the department ministry, in most cases, does not decide within the legal timeframe upon citizens' requests. On the findings, the Ombudsman recommended continuous education and training of officials for legislation in health care, simplifying the procedure of submitting requests by citizens, especially in providing the necessary documentation, and the ability in the future to be provided officially. Furthermore, one of the recommendations is improving the cooperation between the Health Insurance Fund and the Ministry of Health in order to have timely and quality exercise of the citizens' rights. Special information for the exercise of citizens' rights was prepared for the problems in the field of health care.

Through a separate Department for protection of children's rights, the Ombudsman monitors the situation in terms of security, respect and protection of the constitutional and legal rights of children, and in that context monitors the state of street children, a problem for which a particular research is conducted in order to detect the problems with these children and give recommendations for overcoming the situation.

From the research, the Ombudsman found that this problem is still present, since there are 17 Social Work Centers around the country where street children are registered, and most of them are from the Roma community. One of the main problems why these children are on the street is the unfavorable financial situation, the low level of education of the families of these children, as well as the fact that many of them are not registered in the Registry Book.

In order to overcome this problem, special Information on the situation of street children is



submitted to the relevant ministry, in which, among other things, the Ombudsman recommended undertaking measures for continuous education of parents about the importance of proper development and education of children, as well as undertaking measures for entry in the Registry Book, in order to further exercise all rights of these children.

Visits to the homes for elderly people in Skopje, Bitola, Prilep, and Kumanovo were intended to determine the conditions in these institutions. From the conducted visits, it was determined that there is no appropriate staff to look after the elderly, and that the elderly are not provided with the opportunity to submit complaints for the problems they face. For these reasons, one of the recommendations made in the special Information on the situation in homes for elderly people is to provide employment of professionals suitable for the needs of the homes, as well as to allow complaints in writing so that the elderly would be able to express their grievances.

In the reporting year, the Ombudsman investigated the situation with the enrolment of children in first grade of primary education and the first year of secondary education. The purpose of this study was to determine whether and how the obligation of enrolment in primary and secondary education and the decision on regionalization in enrolment are complied, and whether in the formation of classes, in those schools where there are students from different communities, there are students from different ethnic communities.

Thus, the survey covered 38 primary schools from nine cities in the republic. The obtained data indicates that a larger number of primary schools tend to evenly distribute students, by carefully making each class to have approximately equal number of students belonging to the minority communities. There are schools where purely ethnic classes are formed mostly because of the resistance of parents to enroll their children in schools where there are children from other communities.

As far as the secondary education is concerned, the survey covered 26 secondary schools in 12 cities. The obtained data shows that 60% of the secondary schools are satisfied with the enrolment of students of marginalized groups in the first year of secondary education. Furthermore, most of these schools concluded that there is an increase in the number of enrolled students from smaller ethnic communities, especially the Roma one.

As a conclusion of the conducted survey given in the special Information for monitoring of the enrolment of children in first grade of primary education and the first year of secondary education, the Ombudsman, among other things, pointed to the need for greater cooperation and communication among teachers, the professional service in schools with parents of the marginalized groups in order to raise the awareness about the importance of education. Simultaneously, the need for organizing workshops to train teachers in order to achieve better access of teachers towards students was established, as well as greater commitment in terms of updating the data in order to timely deliver invitations to the families for the enrolment of children in primary and secondary schools.

Due to the increased number of complaints of Roma citizens about the violation of their right to freedom of leaving the territory of the Republic of Macedonia, a situation that after several interventions by the relevant Ministry of Internal Affairs has not been changed, the Ombudsman informed the Government of the Republic Macedonia with Special detailed information.

In this information, the Ombudsman gave an opinion that the normative which regulates this issue needs to be upgraded; therefore if the citizen does not meet the requirements for leaving the country, to get an elaborated decision in writing, on the reasons for not permitting an exit and hence the opportunity for further protection of rights.

Due to the large number of complaints from teachers of primary and secondary schools, the Ombudsman submitted Special Information to the Ministry of Education and Science for decisions adopted to reduce the salary as a result of the conducted external testing.

The information, which results from the problems that teachers encounter, recommends future undertaking of measures to accurately determine the methodology for the determination of students being tested, or in checking of the objectivity of a teacher for a particular subject, for all teachers to have a proportional representation of the number of students for testing in that subject on general level, to take into further account the greater transparency in the tabulation

of results while determining the objectivity of the teacher, a right which is now vested with the State Examination Centre.

Also, the Ombudsman holds the view that measures should be undertaken in terms of the duration of the period for which the teacher should receive less salary, and the same to be in line with the Labor law, and to take into particular account the overall effort and work of the teacher during the year when making decisions on punishment.

The Ombudsman assessed the situation in the correctional centre Tetovo, which operates in Veles, as an alarming and worrisome, and submitted a Special information to the Minister of Justice and the Director of the Directorate for Execution of Sanctions.

Namely, after the established cases of sexual abuse among minors referred to the Correctional Centre, the Ombudsman conducted an unannounced visit and found many gaps in almost all segments of the functioning of this facility, such as the conditions for accommodation, the staff, the health care and implementation of the educational process of the children placed in the home.

Because of the identified shortcomings, specific recommendations for their full resolution were submitted. Thus, in order to prevent the further occurrence of physical sexual abuse, a recommendation was made to increase the number of educators in the sector of re-socialization, which would secure daily presence and continuity in the educational process, and to implement leisure activities for the minors. The Ombudsman also recommended unhindered exercise of the right to health care.

In 2014, the Ombudsman submitted two initiatives to the Constitutional Court of the Republic of Macedonia for assessing the constitutionality and legality of the Articles 108 and 109 of the Law on Administrative Officials and the Article 16 of the Law on Public Order and Peace.

Namely, guided by the principle of prohibition of retroactive effect of the laws in accordance with Article 52, paragraph 4 of the Constitution of the Republic of Macedonia, the Ombudsman considers that, according to Articles 108 and 109 of the Law on Administrative Officials by which additional conditions are established for the employees in the administration which were not valid or did not exist at the time when they are employed, this constitutional principle is infringed.

In addition, the Ombudsman challenged Article 16 of the Law on Public Order and Peace before the Constitutional Court, which defines a fine of 100 to 400 euros in denar equivalent, for a person who "falsely called for help or reported the event with a view to cause an exit of an official". Namely, the Ombudsman considers that this provision violates the constitutional principles of the rule of the law and separation of powers, because the notion of the so-called "False" report given in this article is not quite accurate, it is inadequately defined and insufficiently opted and enables voluntary and arbitrary behaviour of the state administration competent for internal affairs, which according to the law is the competent authority for filing a complaint as well as for determining the responsibility and pronouncing a misdemeanor sanction in the procedure.

In the reporting year, the Ombudsman, pursuant to its powers under Article 30, paragraph 1 of the Law on Ombudsman, submitted an initiative to the Government of the Republic of Macedonia, for amending the provisions of the Law on Tax Procedure and the Law on Property Taxes.

Acting within its powers to protect the constitutional and legal rights of the citizens in their case work, the Ombudsman found that within the procedures for forced collection of tax debt of bank account belonging to an individual, the existing normative solutions cause problems and legal uncertainty, because the dignity of the debtors and their families are not taken into account, as well as the enforcement to be more favorable for the debtor.

Namely, in these proceedings, in accordance with the decisions on forced payment on claims based on a bank account which are adopted by the Public Revenue Office, the City of Skopje and Municipalities, the commercial banks consume the whole sum of money from the individuals, which they have on the name of salary, pension, social welfare, and the provisions for the exemption-limit of enforced collection are not implemented.

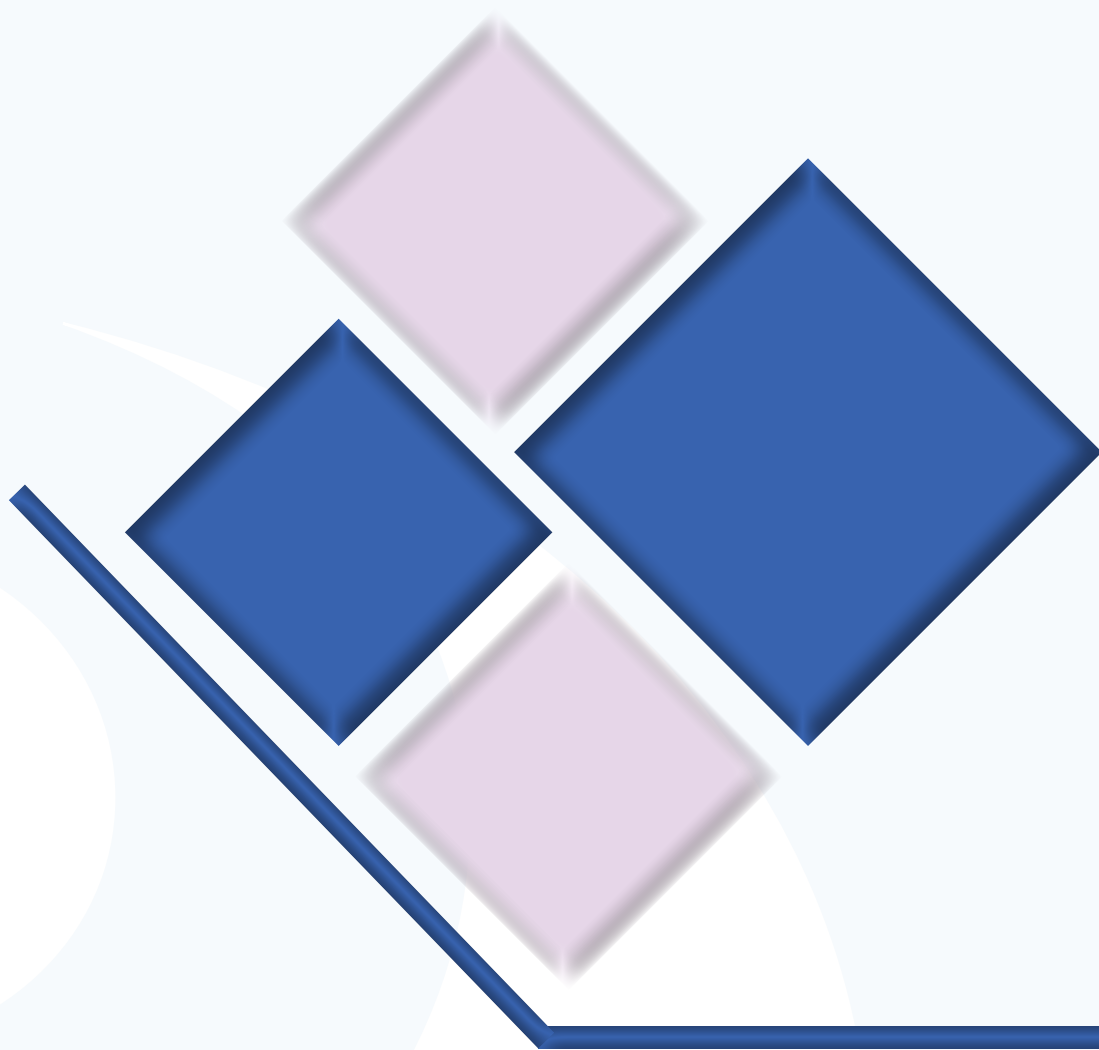
This reporting year, the Ombudsman – the National Preventive Mechanism, in accordance with the powers arising from the Optional Protocol to the Convention against Torture and other cruel, inhuman or degrading treatment or punishment, the Law on Ombudsman and the Rules

of Procedure of the Ombudsman, at the request of the Ministry of the Internal Affairs, sent an opinion on the proposal for a Standard operating procedure for dealing with people who have limited freedom of movement.

The opinion emphasizes that the proposed Standard operating procedure, which has been produced by the competent ministry, sets the standards and procedures of deprivation of liberty and also incorporates the recommendations of the National Preventive Mechanism.

The Ombudsman recommended a supplement to the Standard operating procedure by informing the detainee that is under constant video surveillance (in those police stations where there is a video surveillance in the premises where individuals deprived of their liberty are staying), establishing clarity in deadlines, more precisely that "The detention can last up to 24 hours from the moment of deprivation of liberty and in this period the person must be brought before the competent judge", providing the right to privacy when detainees use the toilet except when a prior assessment of risk is done and there is a necessity to protect the personal safety not only to the detainee but also to the police officers, calling a doctor in a preventive manner in case of high alcohol levels of the detained in police station, as well as other suggestions to improve the operational rules, which will strengthen the system of prevention and protection against inhuman or cruel treatment against persons deprived of their liberty.





# **COMMUNICATION AND COOPERATION OF THE OMBUDSMAN WITH INTERNATIONAL BODIES AND ASSOCIATIONS**



## International communication and cooperation

Regarding the international cooperation, this reporting year, the Ombudsman actively participated in the meetings and events organized by associations and networks of ombudsmen where being a member of, as well as invitations by related institutions and organizations.

In the reporting year, the Ombudsman as a national institution for protection of human rights with status B, submitted an Opinion to the Human Rights Council of the United Nations for the Third Periodic Report of the Republic of Macedonia in terms of the International Covenant on Civil and Political Rights. The Opinion listed specific activities undertaken by the Ombudsman in order to meet the Paris Principles and the acquisition of status A.

As a member of the Association of the Mediterranean Ombudsmen (AOM), the Ombudsman participated at its eighth meeting, held in Tirana, Albania. At the meeting, on which the General Assembly of the Association was simultaneously held, the members presented their experiences and knowledge about the role and cooperation of Ombudsman Institutions with legislative power, civil society and international organizations. In addition, they reaffirmed the importance of the existence of the network and their contribution to the promotion and protection of human rights and freedoms, and also elected new members of the working bodies of the Association.

One of the activities that was internationally conducted this reporting year was the Ombudsman's participation at the 12th International Conference of Ombudsmen held in Baku, Azerbaijan. At the conference, the role of the National Human Rights Institutions was debated, in ensuring the rights of women and the measures and activities undertaken to promote, respect and exercise the principles of equality between genders.

Organized by the Institute for Cultural Diplomacy in Berlin and the Supreme Court of Montenegro, Cetinje, Montenegro held a symposium on "Interdisciplinary analysis of the role of the International law in the promotion of human rights," where the Ombudsman participated with its own speech on "International law, human rights and their protection in the Republic of Macedonia".

## Cooperation at European level

As a member of the European Network of National Human Rights Institutions, the Ombudsman participated, upon an invitation, at the meeting held in Vienna organized by the Agency for Fundamental Rights, the European Network for Equality and non-discrimination and the European Network of National Human Rights Institutions. The purpose of the meeting was to improve the existing methods of communication, enhancing cooperation of the National human rights institutions, as well as an exchange of experiences and best practices in the promotion and protection of human rights and freedoms.

The Ombudsman also confirmed its active participation and commitment of cooperation, exchange of experiences and practices with its related institutions at the Academy of Human

Rights and Freedoms in Budapest, organized by the European Network of National Human Rights Institutions.

This reporting year, the Ombudsman also took active part in the seminar against Racism and Intolerance organized by the European Commission, in which the theme was the role of specific bodies in support of the local government units in the fight against racism and intolerance, which was held in Strasbourg, France.

In 2014, the Ombudsman, upon an invitation of the Commissioner for Fundamental Rights of the Republic of Hungary, paid a visit to the office of the Commissioner in Budapest in order to exchange information and strengthen the bilateral cooperation.

In honor of the 25th anniversary of the Convention on the Rights of the Child, a Conference on "Strengthening the national systems of child protection and protection of children from neglect, abuse, violence and exploitation" was held in Minsk, Belarus, in which the Ombudsman took part. The main focus at the conference, which was otherwise organized by the United Nations, was ensuring a dialogue between governmental institutions and other partner institutions and their contribution in protecting and ensuring the development of the national systems for the protection of children.

In addition, the Ombudsman participated at a seminar and study visit in Warsaw, Poland. The theme of the seminar was the role and mechanisms for the protection of children's rights within the countries of the Vishegrad Group (Poland, Czech Republic, Slovakia and Hungary) and the countries of the Western Balkans and Turkey, with a particular emphasis on the exchange of experiences of national institutions for protection of the Child's rights. At the seminar, the impact of the Ombudsman for children in promoting the children's rights was discussed, as well as the promotion and observance of the three guiding principles of the Convention on the Rights of the Child by the United Nations.

Regarding the capacity building and international cooperation, two study visits were made to Austria and Croatia, organized with the support of the Technical Assistance and Information Exchange of the European Commission - TAIEX. These visits were aimed at an exchange of experiences and good practices in terms of institutions for persons with disabilities, the situation of women in places of detention, as well as the standards in psychiatric institutions.

## Cooperation at regional level

A meeting of the Ombudsmen, organized by the Central European Initiative (CEI), the Regional Cooperation Council and the European Union in Ljubljana, was held and it was agreed to further promote cooperation, while the Ombudsmen adopted a joint statement calling upon the authorities of their countries to show greater care, sensibility and consistency in addressing the issues of economic and social rights.

With the assistance of Technical Assistance and Information Exchange of the European Commission - TAIEX, the Ombudsman participated in the Regional Workshop on "The role of the Ombudsman in the EU integration processes", which was held in Tirana, Albania, and where further cooperation of the Ombudsmen from the region was discussed, as well as the need for joint activities on specific topics that will contribute to increased protection of the human rights and freedoms.

The Ombudsman's cooperation with the Ombudsman of the Republic of Turkey continued this year. Namely, in Ankara, Turkey, the Second International Symposium of Ombudsman institutions from several countries in Europe was held. The purpose of the symposium was to improve the cooperation between the Ombudsman institutions through an exchange of experiences, for more effective and better protection of the freedoms and rights of citizens.

This year, the regular cooperation and meetings of the Ombudsman in the field of protection of children's rights within the Network of Ombudsmen for Children of South East Europe

(CRONSEE) was marked by the active participation of thematic meeting and Conference held in Belgrade. At the Conference, the social and economic crisis were discussed as well as its impact on services for children in countries of the inner circle.

Regarding the regional cooperation, the Ombudsman also took part at the Conference of the Ombudsman Institutions for the Protection of Children Rights, which was held in Sarajevo, where the standards set by the Committee for Protection of Children's Rights of the United Nations were reviewed, as well as the best practices of the institutions and the possibility for greater involvement of civil society organizations in this field.

Within the framework of regional activities, the participation of the National preventive mechanism of the OPCAT Forum of South East Europe held in Belgrade was also observed. At the same time, the National Preventive Mechanism continued its active participation in the network of NPM in Southeast Europe, through the presence of the regular meeting held in Ljubljana, Slovenia.

An abstract geometric design featuring four diamonds arranged in a cross pattern. The top and bottom diamonds are light purple, while the left and right diamonds are dark blue. A dark blue line starts from the bottom-left corner of the left diamond, extends diagonally down and to the right, and then continues horizontally to the right edge of the frame.

# **STATISTICS**

In the reporting year, the Ombudsman acted upon a total number of 4.995 complaints out of which 4.249 were received from 4.331 applicants, and the remaining 746 were carried over from the previous year.

In 2014, the majority of complaints, 3.239, were received personally by the petitioners in the offices of the Ombudsman, 499 were received by post, 265 by e-mail, 132 through the web-site, 81 by phone call, 6 by fax, and 27 are established on its own initiative.

### Review no.1

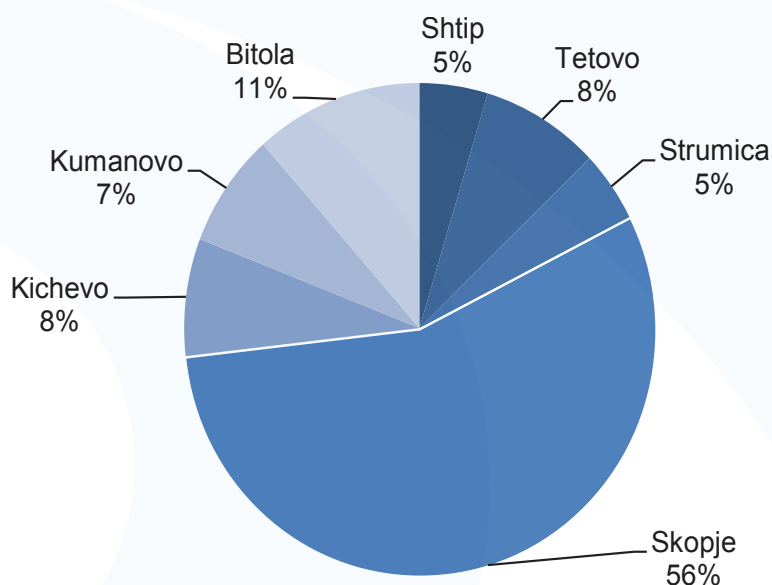
REVIEW ON RESEIVED COMPLAINTS (2008-2014)														
	2008		2009		2010		2011		2012		2013		2014	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Non-discrimination and adequate and equitable representation	21	0,69	20	0,55	16	0,4	42	0,99	32	0,74	51	1,35	66	1,55
Police procedures	236	7,81	252	6,94	238	5,89	179	4,21	220	5,06	177	4,68	173	4,07
Civil states and other interior affairs	132	4,37	154	4,24	169	4,18	126	2,96	156	3,59	97	2,57	85	2
Judiciary	883	29,22	744	20,48	757	18,72	732	17,2	710	16,34	732	19,37	901	21,2
Social protection	115	3,81	95	2,62	140	3,46	193	4,53	240	5,52	206	5,45	279	6,57
Labor relations	253	8,37	389	10,71	365	9,03	412	9,68	306	7,04	246	6,51	299	7,04
Housing relations	34	1,13	57	1,57	89	2,2	65	1,53	57	1,31	76	2,01	36	0,85
Health protection	69	2,28	72	1,98	93	2,3	115	2,7	166	3,82	128	3,39	125	2,94
Pension and disability insurance	180	5,96	181	4,98	159	3,93	237	5,57	241	5,55	224	5,93	221	5,2
Education, science, culture and sport	39	1,29	49	1,35	48	1,19	45	1,06	35	0,81	34	0,9	21	0,49
Children's rights	145	4,8	157	4,32	111	2,75	144	3,38	161	3,7	116	3,07	124	2,92
Urban planning and construction	162	5,36	170	4,68	170	4,2	146	3,43	155	3,57	140	3,7	168	3,95
Environment	15	0,5	21	0,58	20	0,49	26	0,61	35	0,81	20	0,53	26	0,61
Finances	48	1,59	50	1,38	71	1,76	101	2,37	130	2,99	106	2,8	407	9,58
Property – legal relations	317	10,49	361	9,94	401	9,92	360	8,46	272	6,26	261	6,9	239	5,62
Consumers' rights	147	4,86	277	7,63	553	13,68	673	15,81	948	21,81	646	17,09	486	11,44
Penitentiary – correctional and educational –			347	9,55	395	9,77	352	5,27	278	6,4	247	6,53	274	6,45
Persons with special needs									10	0,23	10	0,26	11	0,26
Census							12	0,28	3	0,07				
Eleectoral rights							90	2,11			42	1,11	78	1,84
Друго	226	7,48	236	6,5	248	6,13	206	4,84	191	4,39	221	5,85	230	5,41
TOTAL:	3022	100	3632	100	4043	100	4256	100	4346	100	3780	100	4249	100



In 2014, approximately 8.000 citizens were interviewed in the Ombudsman's office in Skopje, as well as the offices in Bitola, Tetovo, Kumanovo, Shtip and Strumica. A large number of citizens, who were interviewed, were advised about the legal possibility to exercise their rights. Some of the citizens, despite being aware that the Ombudsman is not competent to act, because of their poor financial situation, however, turned to the Ombudsman.

Given this situation, the Ombudsman retains its position from previous year and recommends strengthening of the system of free legal aid.

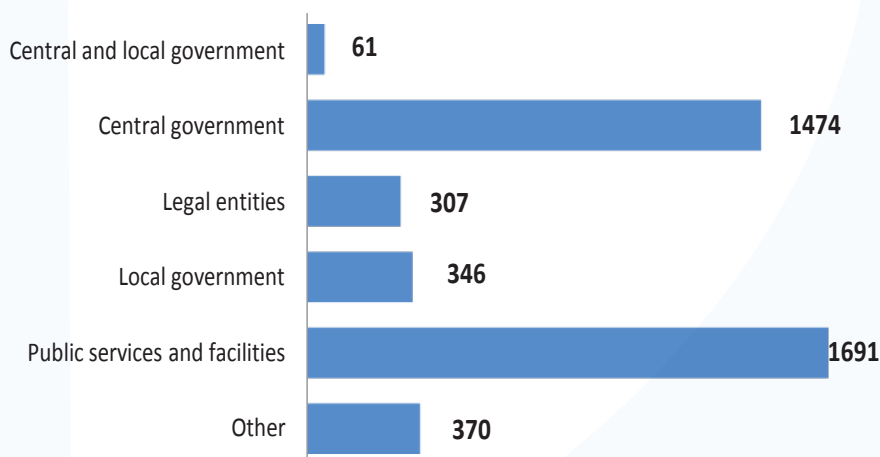
**Figure no.1**



This reporting year, the Ombudsman's office in Skopje acted upon 2,365 complaints, 490 in Bitola's office, 347 in Tetovo's office, 329 in Kumanovo's office, 321 in Kichevo's office, 199 in Shtip's office and 198 complaints in Strumica's office.

Out of the total 4.249 complaints in 2014, 1.691 or 39,80% are related to violation of rights by public authorities and institutions, 1.474 or 34,69% are related to violations of rights by the central government, in 346 or 8,14% complaints the rights are violated by the local government, in 307 or 7,22% complaints the rights are violated by legal persons, in 61 or 1,44% complaints the rights are violated rights by both central and local government, while in 370 or 8,71% complaints, applicants complain of a violation of the rights by other entities.

**Graph no.1**



In the reporting year, out of the total number of 4.258 citizens- applicants, 1.767 or 41,50% did not declare their ethnicity, while 2.491 or 58,50% reported. Most of the citizens-applicants who have declared their ethnicity are 1.569 or 36,85% Macedonians; 620 or 14,56% are members of the Albanian ethnic community; 166 or 3,90% are members of the Roma community; 80 or 1,88% are members of the Turkish community; 50 or 1,17% are Serbs, 28 or 0,66% are Bosniaks; 13 or 0,31% are Vlachs; 21 or 0,49% are members of other ethnic communities, and the lowest number of complaints, or 9 or 0,21% were submitted by Macedonian Muslims.

## Review no.2

REVIEW OF COMPLAINTS ACROSS DOMAINS BASED ON ETHNICITY														
AREA	Complaints received in 2014	Anonymous	Number of formed case upon a self-initiative	Organization (Association)	Number of complainants	ETHNICITY								
						Macedonians	Albanians	Serbs	Roma	Macedonians – Muslims	Bosniaks	Vlachs	Turks	Other
Non- discrimination and adequate and equitable representation	66		2	7	64	4	6	2	13		1		2	35
Police procedures	173	1	1	1	174	54	27	5	19		1		6	61
Civil states and other interior affairs	85				86	20	38	2	3				2	21
Judiciary	901	2		2	918	362	138	5	25	1	6	1	28	347
Social security and protection	279		2	1	278	71	92	5	42	2	4		5	55
Labor relations	299	3	2		324	101	36	4	3	1	2	1	3	173
Housing relations	36				37	10	1	1	3					22
Health protection	125		1	2	122	57	11	1	12		1	2	2	35
Pension and disability insurance	221				223	108	37	3	3		2		1	67
Education, science, culture and sport	21		1		20	8	1		1					10
Children's rights	124		4	7	113	20	14		7		3			69
Urban planning and civil engineering	168			3	175	90	18	1	3			2		60
Environment	26		1		25	12	5		1				2	5
Finances	407		1		409	244	63	11	4	1	5		5	76
Property-legal relations	239			2	247	90	20		1		1	4	12	119
Consumers' rights	486			1	486	201	56	6	18	1		2	1	199
Penitentiary – correctional and educational – correctional	274		9	1	306	31	24		4		2		6	238
Personal with special needs	11			1	10	3	2	1						4
Election rights	78		3	1	68	6	3		1	1			1	56
Other	230			11	238	77	28	3	3	2		1	4	115
TOTAL:	4249	6	27	40	4258	1569	620	50	166	9	28	13	80	1767

According to the place of residence of the complainants, the majority of complaints are from Skopje, or 1.655, followed by complaints from Bitola, Kumanovo, Tetovo, Kichevo, Strumica, Shtip, Ohrid and other major urban areas, as well as other countries. It may be noted that the majority of complainants are those who reside in the cities where the regional offices of the Ombudsman are located.

### Review no.3

REVIEWS OF RECEIVED COMPLAINTS ACROSS CITIES AND STATES OF FOREIGN COMPLAINANTS					
City	Year 2012	Year 2013	City	Year 2012	Year 2013
Berovo	5	10	Negotino	17	21
Bitola	615	421	Ohrid	94	89
Bogdanci	2	6	Pehcevo	5	4
Valandovo	7	3	Prilep	107	88
Veles	57	62	Probistip	15	14
Vinica	13	12	Radovis	19	31
Debar	19	22	Resen	18	4
Delcevo	10	10	Skopje	1907	1574
Demir Hisar	17	13	Struga	82	52
Demir Kapija	2	-	Strumica	93	99
Dojran	2	-	Sveti Nikole	10	13
Gevgelija	31	31	Tetovo	200	204
Gostivar	70	66	Stip	106	112
Zletovo		1	Albania	-	1
Kavadarci	36	38	Bosnia and Herzegovina	1	-
Kicevo	166	190	Bulgaria	-	2
Kocani	28	36	Kosovo	1	-
Kratovo	5	8	Romania	-	1
Kr. Palanka	21	26	Serbia	5	2
Krusevo	9	13	France	-	1
Kumanovo	286	267	Montenegro	-	1
M.Kamenica	9	3	Turkey	1	-
Mak.Brod	18	13	Switzerland	-	1
Mavrovo	4	2	No city or state selected	233	213
TOTAL:				4346	3780

### Data by areas

The majority of complaints or 901 or 21,20% were received from the area of judiciary; 486 or 11,43% from consumer rights (communal and other taxes); 407 or 5,58% from finance and financial operations, 299 or 7,04% from labor relations, 279 or 6,57% from social protection; 274 or 6,45% from the penitentiary-correctional and educational- correctional institutions; 239 or 5,62% from property-legal relations; 221 or 5,20% from Pension and disability insurance; 173 or 4,07% from the field of protection of rights during police authorization; 168 or 3,95% from urban planning and construction; 125 or 2,94% from Health Care ; 124 or 2,92% from protection of children's rights; 85 or 2,00% from civil states and other interior; 78 or 1,84% from voting

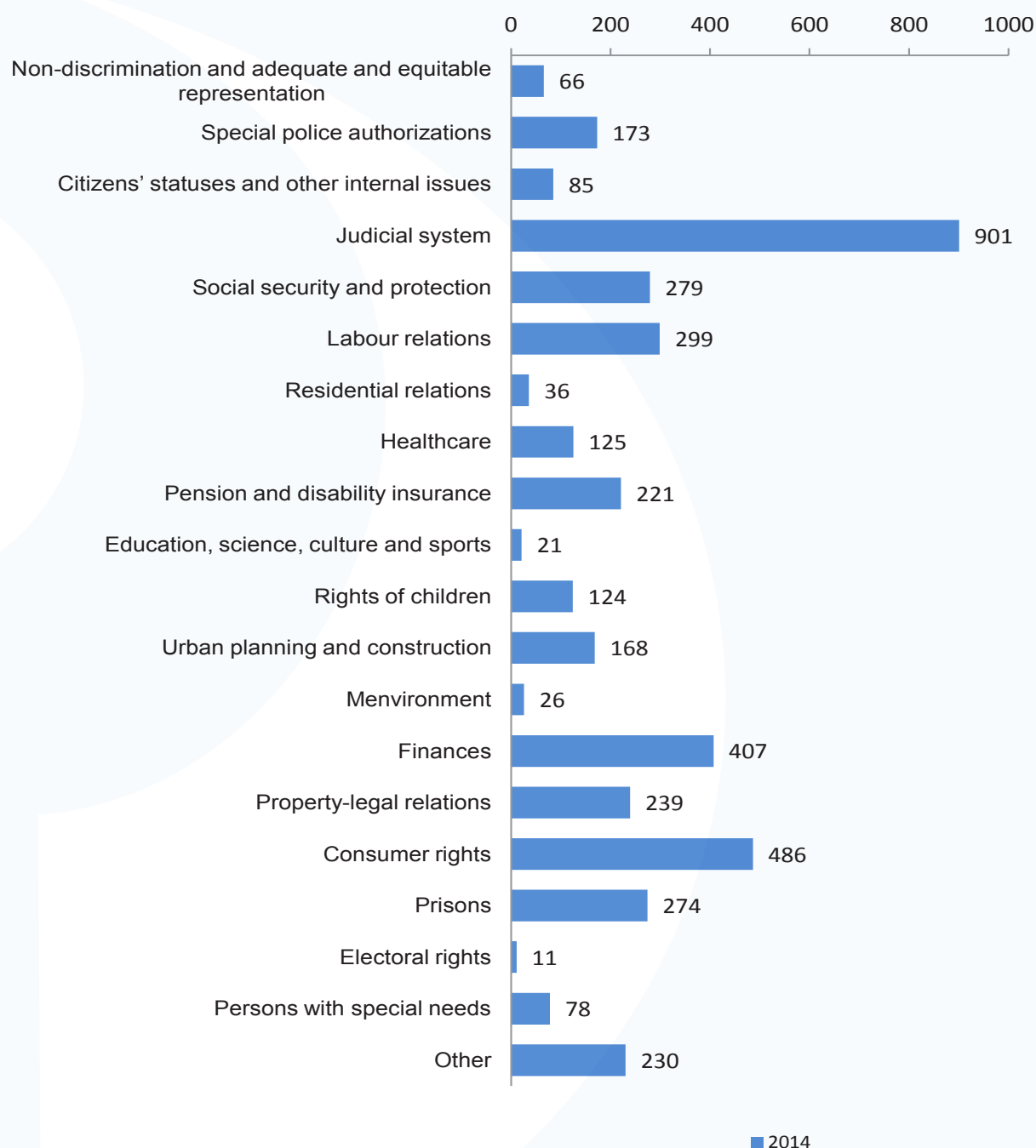
rights; 66 or 1,55% from non-discrimination and adequate and equitable representation; 36 or 0,85% from housing relations; 26 or 0,61% from environment, 21 or 0,49% from education, science, culture and sport; 11 or 0,26% from disabled persons; as well as 230 or 5,41% of complaints that were received from other areas.

#### Review no.4

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2014 ACROSS DOMAINS																
AREA	Received in 2014	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Number of formed case upon a self-initiative	Manner of closing									
							Violations found									
							Со одлука за запирање или непокрнување постапка	Решени на друг начин	Opinion, suggestions and recommendations provided	Acted upon the Ombudsman's intervention	All legal activities taken by the Ombudsman	no activities taken upon the Ombudsman's interventions	Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures
Non-discrimination and adequate and equitable representation	66	64	17	83		2	28	3	25	14	7	4	1	1		52
Police procedures	173	174	45	218	1	1	124	6	37	25	10	2	5			166
Civil states and other interior affairs	85	86	53	138			61	3	36	25	2	9	1			91
Judiciary	901	918	123	1024	2		713	8	156	149	6	1	1		2	878
Social protection	279	278	40	319		2	168	1	62	61		1	1			230
Labor relations	299	324	66	365	3	2	204	3	76	53		23	34		2	263
Housing relations	36	37	18	54			31		13	11	2					44
Health protection	125	124	51	176		1	69	3	53	42	6	5	2		4	120
Pension and disability insurance	221	223	39	260			122	2	99	86	5	8				215
Education, science, culture and sport	21	20	3	24		1	15		7	7						22
Children's rights	124	120	12	136		4	66	2	39	33	1	5	5		3	102
Urban planning and construction	168	175	48	216			124	6	51	40	6	5			1	176
Environment	26	25	2	28		1	18		8	8						26
Finances	407	409	20	427		1	116	4	265	253	2	10				375
Property – legal relations	239	247	42	281			136	4	102	91	4	7			2	235
Consumers' rights	486	486	82	568			359	4	127	113	7	7			1	483
Penitentiary – correctional and educational – correctional institutions	274	297	31	305		9	212	6	51	42	5	4	1		1	265
Persons with special needs	11	11	3	14			4	1	6	6			3			11
Electoral rights	78	75		78		3	51	14	13	8	5					78
Other	230	238	51	281			177	2	52	47	4	1				230
TOTAL:	4249	4331	746	4995	6	27	2798	72	1278	1114	72	92	54	1	16	4062

In 2014, the number of complaints of citizens from the area of finance and financial performance was significantly increased. The number of complaints of citizens on social security and social protection was increased compared with the previous year, and the number of citizens who complained of the judiciary continually increases every year. This reporting year, the number of citizens seeking protection as consumers was reduced.

Graph no.2

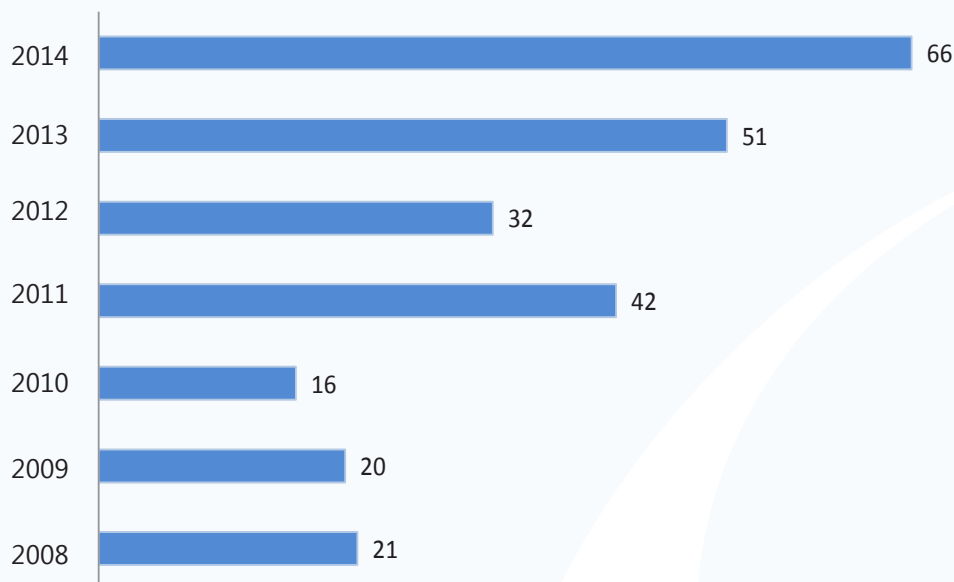


In the reporting year, in the area of non-discrimination and adequate and equitable representation 66 complaints were received, or 15 more than the previous year. Most of these complaints or 31 were related to discrimination by ethnicity. Of them, the Ombudsman stated a violation in 25 cases, after which it submitted suggestions and recommendations to the compe-



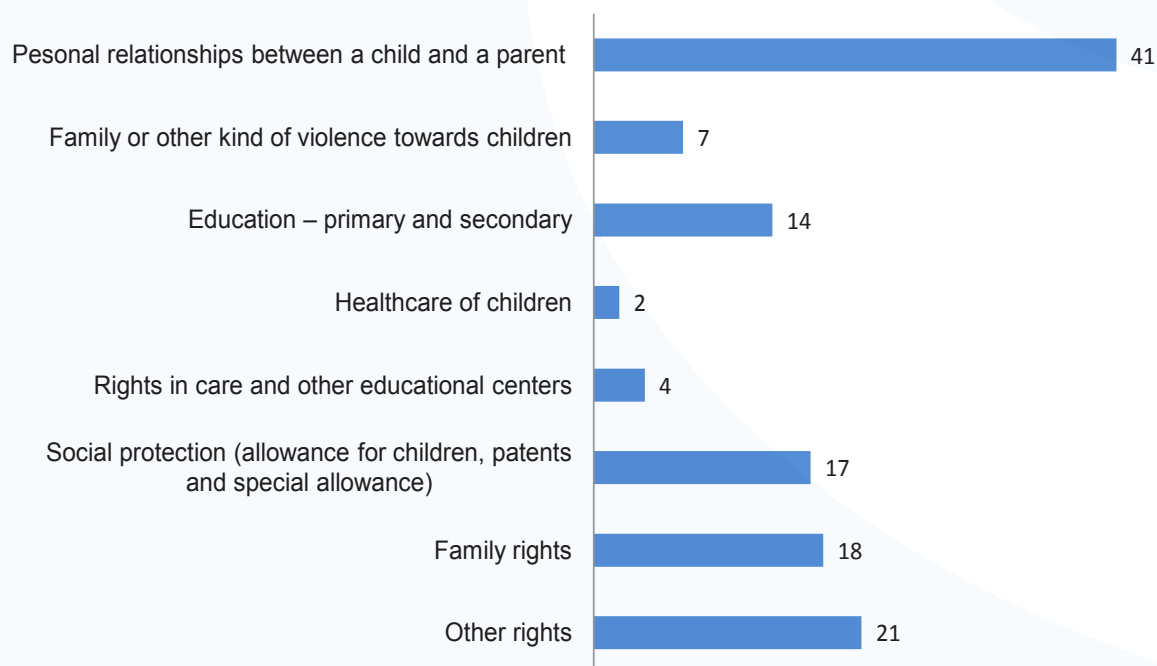
tent authorities. The recommendations by the Ombudsman were accepted in 14 cases, while in 7 cases all legal possibilities were undertaken, whereas four cases are awaiting a response.

**Graph no.3**



Out of 124 complaints received in the area of children's rights, 41 or 33,07% relate to the rights of the child to achieve personal relations and direct contacts with the parent they do not live, 18 or 5,17% relate to children's rights in the family, 17 or 14,52% to social protection, 14 or 11,29% to violation of rights in educational institutions, 7 or 5,65% to domestic and other violence against children, 4 or 3,23% to rights in educational and other institutions, 2 or 1,61% to the health care of children and 21 or 16,94% related to other children's rights. This reporting year, the Ombudsman concluded that the violations of children's rights continue in many areas, especially the rights of the child in the family.

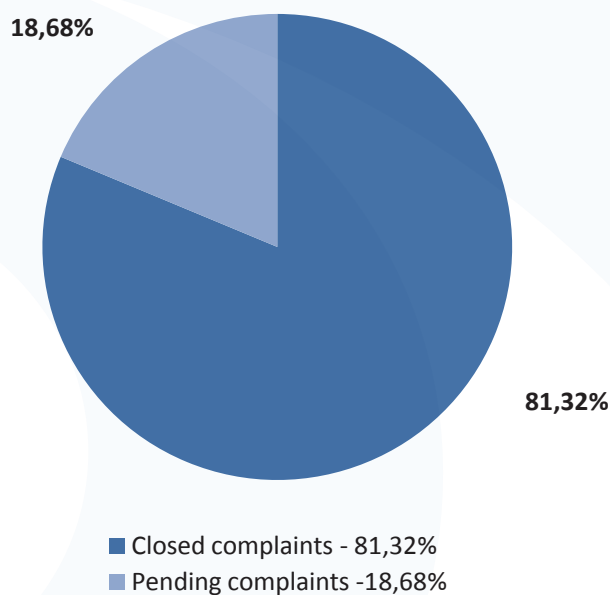
**Graph no.4**



## Actions

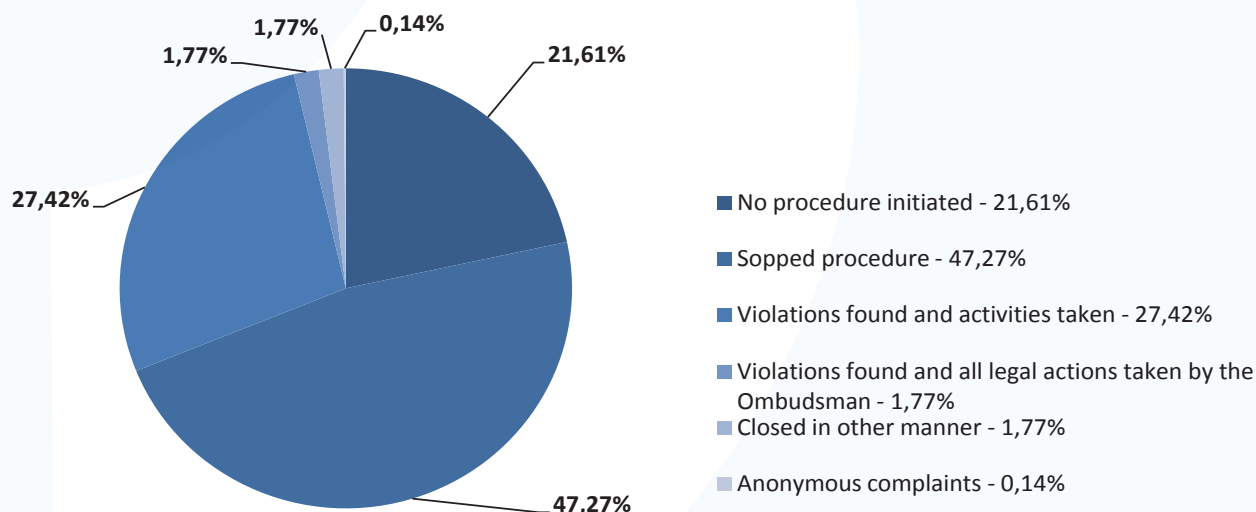
Out of 4995 complaints, the procedure is completed in 4.062 or 81,32% of the cases, while in 933 or 18,68% complaints the procedure is in progress. (Figure no. 2)

**Figure No.2**



From the completed procedures, in 878 or 21,61% out of 4.062 complaints no action was undertaken, in 1.920 or 47,27% cases the procedure is stopped, while in 1.114 or 27,42% complaints, the Ombudsman concluded a violation of human freedom and rights and its interventions were accepted. In 72 or 1,77% cases, the Ombudsman undertook all legal actions, 72 or 1,77% of the cases were solved in another way, and 6 or 0,14% of the cases were anonymous. (Figure No. 3)

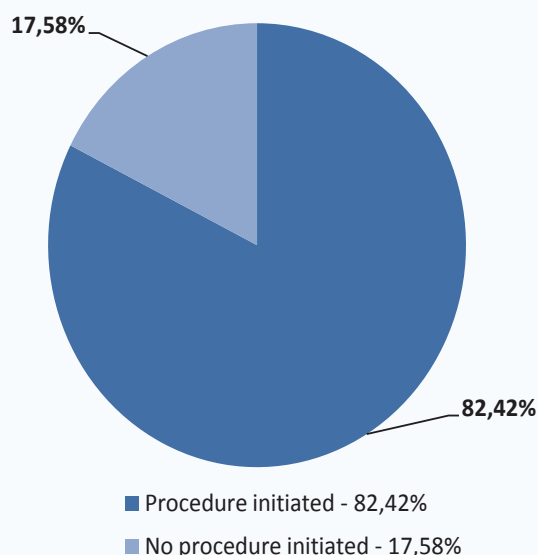
**Figure No.3**



In 2014, the Ombudsman acted upon 4.117 or 82,42% complaints out of 4.995, while for 878 or 17,58% of the complaints, no proceedings were initiated. Because of this number of complaints for which no proceeding was initiated, the Ombudsman believes that there are still citizens who have insufficient knowledge of the legal possibilities of the institution, because of

that, it considers that there is a need to promote human freedoms and rights and the institution of the Ombudsman as well, in order to inform the citizens of their rights, the protection of the same, as well as the powers of the Ombudsman. (Figure no.4)

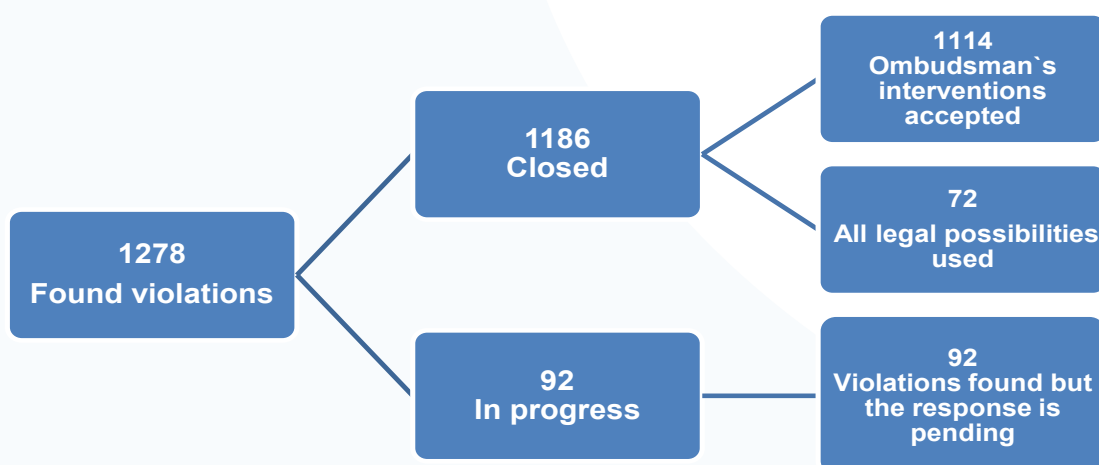
**Figure no.4**



The Ombudsman initiated a proceeding for 4,117 complaints, out of which 3.184 or 77,34% were completed, and for 933 or 22,66% complaints, the procedure is still ongoing. This reporting year as well, the Ombudsman continuously submitted information to the Government of Republic of Macedonia on every three months, regarding the number and type of requests submitted by the Ombudsman to the bodies of the Government and the bodies within ministries. The Ombudsman still remains at the conclusion that further efforts are required towards improving the quality of cooperation.

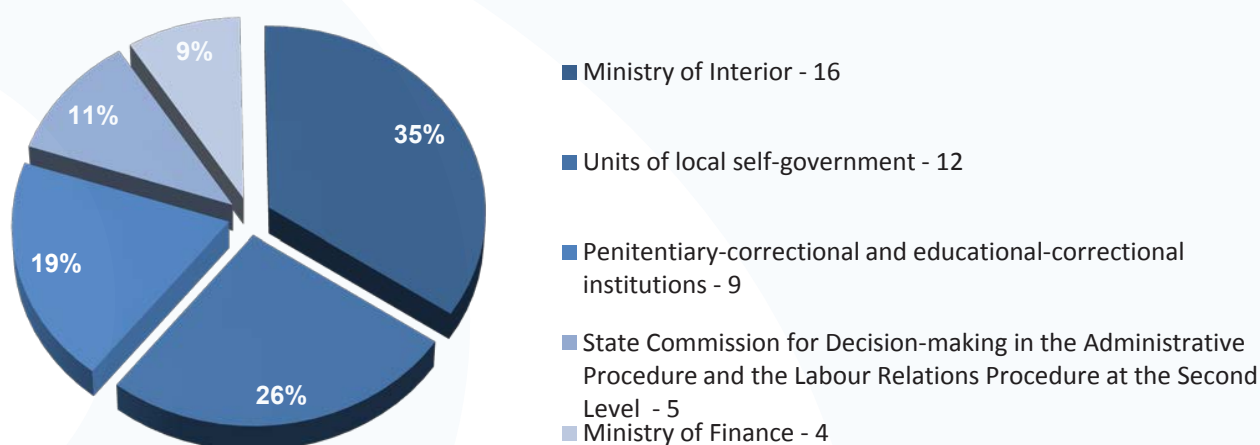
## Violations found and measures undertaken

Out of the total number of cases in which the Ombudsman acted, a violation of human rights and freedoms of citizens was concluded in 1278 cases. Of them, in 1.114 (87,17%) cases, the state administration bodies, other bodies and organizations with public authority accepted the Ombudsman's interventions, in 92 (7,20%) cases the procedure is still in progress, while in 72 (5,63%) cases (after a violation was found and the submitted recommendation was not accepted, other actions, in the form of information and special reports, were undertaken) the Ombudsman has exhausted all legal possibilities.



The majority of violations in 2014 were from the area of finance and financial operations or 265 or 20,74% violations, out of which 253 or 95,47% of the cases were acted upon the Ombudsman's interventions. They are followed by complaints in the area of judiciary, with 156 or 12,21% cases of violations found, out of which 149 or 95,51% of the cases accepted the Ombudsman's interventions. In the area of consumer rights, 127 or 9,94% violations were identified, out of which in 113 cases or 88,98%, bodies and organizations with public mandates acted upon the Ombudsman's interventions. In the complaints related to property relations, violations were found in 102 or 7,98% of the cases, out of which in 91 or 89,22% of the cases the Ombudsman's interventions were accepted, followed by complaints from the pension and disability insurance, etc.

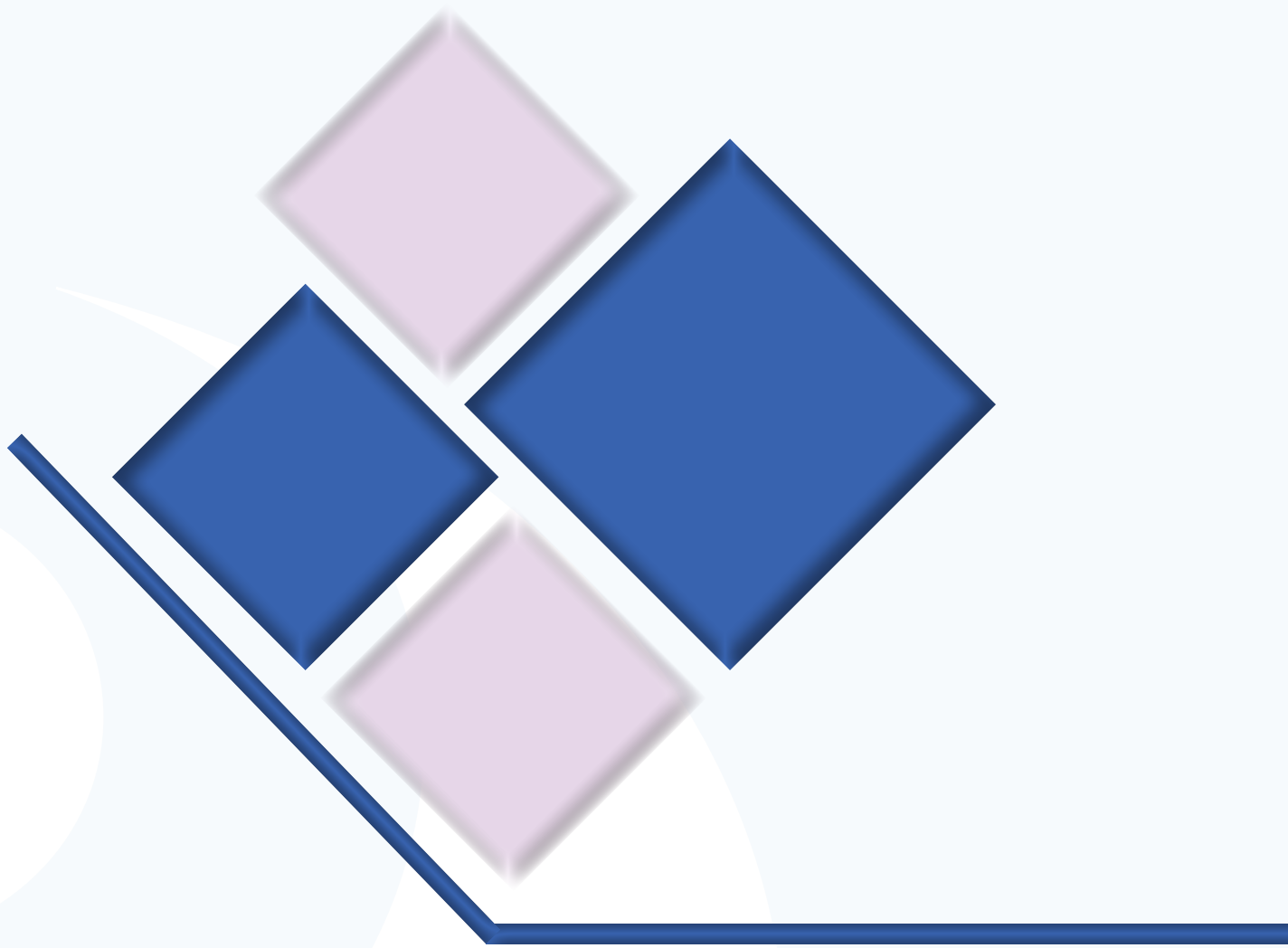
**Figure no.5**



Bodies which have frequently not acted upon the indications, suggestions, recommendations, opinions and other interventions of the Ombudsman are the Ministry of Internal Affairs, local governments units, the Penitentiary-correctional and educational - correctional institutions, the State Commission for deciding in administrative procedure and procedure of employment in the second instance, the Ministry of Finance, the Ministry of Health, the Health Insurance Fund, etc.







**THE INSTITUTION**

## Organization and manner of operation

The Ombudsman is a body of the Republic, which according to the Constitution protects the constitutional and legal rights of citizens when violated by bodies of state administration and other bodies and organizations with public mandates. The Ombudsman, which is also the National Preventive Mechanism, pays particular attention to protection of the principles of non-discrimination and adequate and equitable representation. The election and his mandate are a constitutional category.

The organization of the Ombudsman's work is stipulated in the Law on the Ombudsman and other by-laws that it brings.

The seat of the Ombudsman is in Skopje, but it has regional offices in Bitola, Kichevo, Kumanovo, Strumica, Tetovo and Shtip.

In 2014, the 10 years anniversary of functioning of the regional offices was celebrated, which, among other things, pointed out the needs to improve the way of working.

## Staff (non) equipping

The reporting year marked the functioning of the central office of the Ombudsman with only one instead of four deputies, due to the inability for harmonization. This reporting year, the trend of reducing or weakening of the staff capacities in the institution also continued, due to the inability to fill the vacancies, which contributes to permanent reduction of the number of employees belonging to the Macedonian nationality.

Qualification, gender and ethnic background of the employees:

	COMMUNITY AFFILIATION								total employees
	Macedonian	Albanians	Turks	Roma	Serbian	Vlachs	Bosniaks	Other	
Appointed persons	3	3		1		1			8
Managerial job positions	16	4			1	1	1		23
Non-managerial job positions	12	24	1	2	2	1	1	1	44
Total:	31	31	1	3	3	3	2	1	75

	LEVEL OF EDUCATION										Total
	Employees by gender		Higher education		Post-secondary education		Secondary education		Primary education		
	M	Ж	M	Ж	M	Ж	M	Ж	M	Ж	
Appointed persons	5	3	5	3							8
Managerial job positions	11	12	11	12							23
Non-managerial job positions	14	30	8	24			6	6			44
Total:	30	45	24	39			6	6			75

The institution operates under conditions of vacancies. The Ombudsman cannot fill the vacancies, because starting from 2011, the Ministry of Finance persistently has not given a consent to fill the vacancies. The fundamental value of the constitutional order, the adequate and

equitable representation of citizens belonging to all communities in state bodies and other public institutions at all levels, which, according to the Constitution of the Republic of Macedonia should be protected by the Ombudsman, is impaired in the institution itself. This is due to the financial dependence of the Institution of the Ministry of Finance. With further ignoring of this issue which on several occasions is set to the appropriate levels, the achievement of parallel between quality and efficiency in the work is more difficult. I urge and expect in the coming period this problem to be overcome.

## Funds for work

The source of funds for the work of the Ombudsman is the Budget of the Republic of Macedonia. Of the total appropriations, for the Ombudsman and the sub-program for the National Preventive Mechanism (NPM) - MKD 71,356,000.00 are earmarked.

The appropriations are not sufficient and there is a problem for quality performance of the function. Namely, certain unjustified fixing of the amounts of certain items is noted, that regardless of the validity of the explanation for the justification of the requested funds- an approval is never made. This dramatically restricts the work of the institution in the field of promotion of human rights and freedoms, which is part of its mandate. Experience shows that every venture that institution has had so far in the field of promotion, has been made possible thanks to the help of external partners and donors such as the OSCE Mission to Skopje, the European Commission TAIEX, the Dutch Embassy in Macedonia and others, but never with a budget support.

As for the budget of the National Preventive Mechanism and its financial independence, according to the Optional Protocol to the Convention against Torture of the United Nations, as the financial independence of the institution, it is formally served.

For many years, the Ombudsman cannot equip the team for the Prevention of Torture, due to the dependence on the Ministry of Finance, which cannot meet the established international standards and principles for the functioning of the Team for prevention.

	LEVEL OF EDUCATION										Total
	Employees by gender		Higher education		Post-secondary education		Secondary education		Primary education		
	M	F	M	F	M	F	M	F	M	F	
Appointed persons	5	3	5	3							8
Managerial job positions	11	12	11	12							23
Non-managerial job positions	14	30	8	24			6	6			44
Total:	30	45	24	39			6	6			75



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