



REPUBLIC OF MACEDONIA
O M B U D S M A N

ANNUAL REPORT

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

2012

Skopje, March 2013

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Introduction

In a multiethnic society such as the Republic of Macedonia, the respect, fulfillment and the protection of human rights and freedoms is a vital and crucial necessity since it represents the cornerstone of tolerance and a prerequisite for the development of democracy as a whole.

This in turn, calls for the existence and the fundamental functioning of mechanisms for protection of rights and freedoms, and one of these mechanisms is the Ombudsman.

By respecting and applying the principle of equality, year by year, the Ombudsman gains the citizens' trust as well as the respect of the state authorities acting as intermediaries between the two sides in order to insure the protection and fulfillment of freedoms and rights and the effective operation of the authorities. This is evidenced by the ever increasing number of citizens who come forth and seek protection.

As a result, during its fifteen year of existence, the Institution managed to compete in the society as a high-quality protector and defender of the citizens in the unobstructed fulfillment of their constitutionally guaranteed rights and freedoms. In addition, the role of the Institution in the process of public administration reform is undisputable, especially in societies in transition such as our own.

The Ombudsman's endeavors have and will continue to be focused on promoting human rights and freedoms and on strengthening the manner of their protection which represents an unequivocal goal since human rights are the key to a sustainable and peaceful democracy. And if the Ombudsman as the defender of these rights has the fundamental role to objectively monitor the conditions, the role of everyone participating in the immediate decision-making process to reach this most noble of causes is unequivocal as well; the cause being the equality among citizens and the adequate application of the law. This process continues uninterruptedly and this is the path we have chosen to take with utmost professionalism and dedication.



Ixhet Memeti

A handwritten signature in blue ink, appearing to be 'Ixhet Memeti' with a stylized flourish at the end.



IN 2012

DISCRIMINATORY WRITING REMOVED FROM TEXTBOOKS FOLLOWING OMBUDSMAN'S INTERVENTION

Upon receiving information on the existence of a writing in the 4th grade Macedonian language textbook from the nine-year compulsory education, full of prejudice and stereotypes towards the members of the Roma community, the Ombudsman has initiated a procedure and found that the alleged writing included direct discrimination of the Roma community and addressed its insight to the competent institutions as well as the Ministry of education. They, however, did not proceed to remove the writing from the textbook in question, mostly because the National Textbook committee has not scheduled a session in a prolonged period of time.

As a result of this behavior by the institutions, the Ombudsman sent his recommendation to the Teaching Service and the National Textbook Commission and during their session held in June 2012 they have accepted the Ombudsman's recommendation and issued a Conclusion which advises against using the writing from the Macedonian language textbook in question.

FIVE SUCCESSIVE HEARINGS POSTPONED ON THE SAME GROUNDS

The authorized representative of a party in a legal proceeding has pointed out that the reason for postponing five successive hearings is the Ministry of Interior's inadequate actions in relation to the demands of the court and has requested an intervention from the Ombudsman.

On the one hand the petitioner of the recommendation is an attorney and the Law grants him public mandate, on the other hand however the court is obligated to handle, take measures and actions and even to directly communicate, if necessary, with the persons in charge of other state bodies so as to achieve an effective proceeding and to respect the right to trial within a reasonable time. The Ombudsman found that the reason for the unjustified postponement of the proceeding, that is to say the violation of the principle to trial within a reasonable time, is the disregard of obligations and the lack of communication among state bodies.

REQUEST SUBMITTED FOR INITIATING PROCEDURE ON ASCERTAINING PENAL RESPONSIBILITY AGAINST EMPLOYEES AT THE SECURITY SERVICE OF A PENITENTIARY – CORRECTIONAL INSTITUTION

With the existence of reasonable doubt that the employees at the security service of a penitentiary – correctional institution have used excessive force during their escort of detained persons to their cells and have therefore committed a criminal act – Harassment while on duty, the Ombudsman has submitted a request to the Public Prosecution's Office for initiating a procedure on ascertaining penal responsibility, which has been accepted.

THE PENITENTIARY – CORRECTIONAL INSTITUTION IN STIP MAY BECOME AN ADDITIONAL PROBLEM IN THE PRISON SYSTEM

The penitentiary – correctional institution in Stip is constantly faced with the problem of overcrowding, which in turn generates other negative occurrences in relation to the accommodation of prisoners and the conditions of safety and security, as well as an increase of conflicts among the convicted persons. This on the other hand inevitably points out the need to strengthen the Security service to ensure full and continuous protection of the convicted persons as well as the institution itself.

OMBUDSMAN SUCCESSFULLY PROTECTED CITIZENS FROM PAYING OBSOLETE BILLS

Public enterprises under the competence of local authorities have issued notices to citizens requesting payment on unpaid bills for communal services dating several years back. Furthermore, the citizens were imposed with late payment interest. Through these notices, the public enterprises were trying to indebt citizens with enormously high amounts for communal services dating several years back.

Upon receiving these complaints, the Ombudsman requested that the public enterprises supply information whether a timely claim has been filed against these citizens and their obligations, and that the enterprises respect and follow the provisions from the Law of Obligation for communal services made for household, which stipulated this type of debt becomes obsolete after one year. In this case, the Ombudsman has requested that the debts of these citizens are immediately removed from their records.

In almost all cases, the Ombudsman found that no legal procedures for forced payment have been initiated, so the public enterprises followed the Ombudsman's indication and removed the debts of these citizens from their records.

By the end of the year, "EVN – Makedonija" AD – Skopje has also addressed citizens with late payment notices, in regards to debts from 2004 and 2005. Again, the Ombudsman pointed out that "EVN – Makedonija" AD – Skopje lacks the legal basis to demand payment of debt for consumed electricity from households when these debts are older than one year and requested that the debt is removed from their records.

Through his actions, the Ombudsman succeeded in protecting the rights of many citizens and freed them from paying debts which are, according to the law, obsolete.

SEVERAL STREETS FROM SUTO ORIZARI MUNICIPALITY LEFT WITHOUT ELECTRICITY FOR A WEEK

After being left without electricity by "EVN-Makedonija" AD-Skopje for eight days, several hundred citizens from the Suto Orizari municipality requested the Ombudsman's intervention. The Ombudsman personally organized a joint meeting on May 17th 2012 with the representatives of the claimants and the representatives of the Management Board of "EVN Makedonija" AD-Skopje.

The meeting was held at the Ombudsman's office and it was agreed that "EVN" will immediately commence their planned reconstruction of the electrical network in the municipality as foreseen by their project, and will supply the citizens' households with their needed electricity.





FEAR OF EXPOSURE TO NON-IONIZING RADIATION: JUSTIFIED OR NOT?

A large group of citizens addressed the Ombudsman Institution concerned about their health and the effects of the non – ionizing radiation, radiated from the telecommunication equipment, even though these effects have not been objectively measured, or proved with analysis or forensic expertise.

If the non – ionizing radiation is indeed harmful, than the governing institutions should take immediate measures to promulgate a Law on Protection Against Non – Ionizing Radiation as “lex specialis” which will regulate the conditions and measures for protecting people’s health and protecting the environment from these damaging effects.

THE RULES ON HEATING SUPPLY INDEBT CITIZENS WITH FEES FOR SERVICES THEY DO NOT USE

The Energy Regulatory Commission has adopted Rules for Heating Supply which indebt citizens, who are not actual consumers of heating supply, to pay a fixed amount i.e., to pay a compensation for heating supply calculated by the used capacity. The citizens not using the heating supply are indebted with this fee only because they own an apartment in a condominium building with neighbors who are actual consumers of this type of service.

The Ombudsman expressed his dissatisfaction and concern about this type of treatment and on the act of imposing unjustified expenses, which is foreseen as an obligation with a bylaw and disrespects the free will of the citizens who have the right to choose whether they want to use the heating supply.

In order to surpass this problem, the Ombudsman has addressed the Energy Regulatory Commission and requested a normative intervention to be made in the existing regulatory rules, because this fixed amount also indebts those citizens who have never used their service or citizens who do not have heating installation in their households which clearly means they cannot be classified as disconnected customers.

Furthermore, the Ombudsman expressed his disappointment with the calculation method for this fee because although the same regulations apply for all calculations, the fee is different for different citizens depending on which supplier has made the calculation.

FAILURE TO IMPLEMENT EXECUTIVE REGULATORY ACTS MAY LEAD TO A NEW URBAN CHAOS

The problem of removing illegally built constructions (unfortunately illegal constructions continue to pose a problem even after the adoption of the Law for Dealing with Illegally Built Constructions) is still widely present. The inadequate personnel capacity, especially the technical element necessary for actual implementation of the established regulations has lingered through the years and even in 2012 the fact remains that no individual or company has responded to the tender for the most preferable executor. If this issue is not handled in due time (the initial phase of the illegal construction) soon we will be faced with new illegal constructions, or worse - a new urban chaos.

FOLLOWING THE OMBUDSMAN'S INTERVENTION MUNICIPALITY BEGAN THE PROCESS OF OPENING A REGIONAL HIGH SCHOOL FOR INTELLECTUALLY DISABLED CHILDREN

In order to allow children with intellectual disability to exercise their right to high-school education, the Ombudsman has encouraged the municipality to submit a request with the competent ministries. The existence of spatial and personnel capacity has allowed the parents and the intellectually disabled children's wish to become a reality and a new regional municipal agricultural high-school "Kuzman Sapkarev" – Bitola was opened.

The Ombudsman will continue to monitor the realization of this project, which will undoubtedly alleviate the problems special needs children face in regards to their right to high school education.

MINORS ABUSED BY THEIR PARENTS

Following an anonymous report on a mother who neglects and provides inadequate care of her children, the Ombudsman has initiated a procedure to ascertain that the mother, as the sole living parent, has left five minors in the apartment, and left the country with the other two children, also minors. After the Ombudsman's indication, the Center for Social Work visited the children in question and began the procedure to ensure their proper care and protection, which consisted of assigning a legal guardian, and filed a claim against the mother for neglect and abandonment of under aged children.



CHILDREN ABOVE THE AGE OF THREE ARE HOSPITALIZED WITHOUT PARENTAL PRESENCE

Upon receiving a complain that when children are hospitalized they are usually not accompanied by their parents because the parents cannot cover the additional costs, the Ombudsman has ascertained that when the parent lacks the material capacity to pay the compensation for staying in the hospital with his child above the age of three, the child is usually hospitalized without parental presence and cannot receive the care and attention from the parents/guardians. This can have a negative effect especially on children who suffer from serious medical conditions because the children are in dire need of their parents' love, care and affection. The lack thereof can frequently lead to the deterioration of the medical condition in question due to the trauma caused by the absence of the parent, especially in cases when the child does not recognize nor speak the official language of the hospital.

The Ombudsman has addressed the competent bodies and asked for the age limit of children who need to be hospitalized with their parents to be raised. The Health Insurance Fund did not express its opinion or interest to solve the existing problem, but instead it called upon the existing legislation, while the Ministry of Health supported the Ombudsman's initiative but indicated that the implementation of this initiative requires adequate financial means and thus far the funds in question could not be secured.

LACK OF MEDICAL INSTITUTIONS AND FACILITIES FOR ADEQUATE TREATMENT AND HEALING OF CHILDREN ADDICTED TO NARCOTICS

The Ombudsman indicates that the number of drug users and drug addicts among children is constantly increasing and children are introduced to drugs and other psychotropic substances at an alarmingly low age limit. The majority of these children are orphans or lack parental care and most of them are members of the Roma community.

The Ombudsman emphasizes the need to take certain measures and ensure the adequate treatment of these children in such a way that the treatment is different from that given to adult drug users. Furthermore, these children need to be accommodated in special healing institutions for treatment and all of this requires active involvement from all bodies and institution who possess the authority and have the responsibility to take care of children's rights from their health, social, educational or other aspect.

The city of Skopje has financed the opening of several counseling centers for prevention of substance abuse among high-school students and the Ombudsman sees this as a positive step and encourages others to follow this example because this type of prevention is an important part of the socialization process and the proper guidance of our youth towards healthy lifestyles and their adequate integration in all social aspects of life.

MARITAL AND FAMILY PROBLEMS VERSUS CHILD'S RIGHT TO EDUCATION

A parent has requested the Ombudsman's help to fulfill his child's right to primary education, a right obstructed by his spouse and the spouse's parents.

The Ombudsman pointed out that the child must be allowed to fulfill his right to education, and requested the involvement of the Center for Social Work and the State Education Inspectorate in order to overcome the issues between the parents.

The Center for Social Work provided special counseling and consulting in order to strengthen, support and enhance the partnership and the parental and family relations between the spouses. In addition the spouses were advised on the realization of the family functions which in this case included the normal education of their child and has continued to monitor the condition within the family while the State Education Inspectorate has undertaken legal actions and initiated a legal procedure against the mother for violating the child's right to education.

TWO DIFFERENT CHILD – CUSTODY DECISIONS: ONE FAVORS THE MOTHER, THE OTHER FAVORS THE FATHER

Acting upon a complaint related to child custody, when on the basis of an effective and executive court decision the custody was transferred over to the mother, the Ombudsman found that the Center for Social Work – Gostivar failed to implement the decision of the court. A decision was made to entrust the father with the child's care, to entrust him with the parenting rights for the child and to allow the mother regular visitation rights when it should have been the other way around. By issuing this decision, the Center has altered the court's decision well beyond its competence

The Ombudsman indicated that the effective court decision is unequivocal and must be followed precisely by everyone since it has a larger legal influence than any other decision made by other competent bodies. In this context, the Ombudsman requested that the Center takes the appropriate measures to place the child in the custody of the mother as foreseen by the court decision, upon which the Center for Social Work revoked their prior decision to entrust the child with the father. After the injunction, request and prior notification of the Court to return the under aged child to his mother, the Center was prepared to have one of their representatives present during the implementation of the court decision.

INFRINGEMENT OF THE RIGHT TO SPECIAL COMPENSATION FOR PERSONS/ CHILDREN WITH VISION IMPAIRMENT

The Ombudsman has found that children with visual impairment as well as those who have lost their sight cannot exercise their right to a special financial compensation because the Commission that was supposed to diagnose and evaluate them, i.e., to classify their disability, is not operational for over a year.

The Ombudsman intervened with the competent bodies and requested measures to ensure the proper functioning of the Commission so that these persons can fulfill their right to special compensation, and the competent commission responded to the Ombudsman's intervention by immediately resuming its function and calling in all the persons/children with vision impairment for proper examination.

DOES THE CENTER MONITOR THE CONDITION WITH PARENTAL RIGHTS?

After receiving a complaint that a family of eight, two adults and six under aged children, were left on the streets without food, clothes or a roof over their head in low – temperature weather, the Ombudsman requested that all necessary measures are taken to ensure the rights of this family, which includes providing proper accommodation, and in particular the Ombudsman has emphasized the right of the under aged children to an adequate standard of living.

In the midst of the procedure aimed to protect the children and accommodate them in a foster home along with their parents, the Center for Social Work found that the parents have had their parental rights revoked. As a result, the under aged children were accommodated in foster care, and the parents were assisted in exercising their right to social welfare and were provided with a single financial aid to help them find a suitable place to rent.

THE PUBLIC REVENUE OFFICE USES CITIZENS' EMPLOYMENT – BASED PERSONAL INCOME POST – TAX FOR FORCED PAYMENT ON UNPAID TAXES

Upon the received complaint, the Ombudsman has found that the Public Revenue Office – Regional main – office Skopje has violated the provisions of the Law on Tax Procedures during their procedure for force payment of civil sanctions – fines.

The Public Revenue Office uses the citizen's personal income based on his employment post tax as well as the income based on legal support – alimony to deduct the total amount of the debt.

The Ombudsman pointed out that the Law foresees the income based on legal support to be exempt from forced payment and that the payment should not exceed two thirds of the employment personal income post tax, with the highest amount being one hundred and fifty Euros in denars counter value from the citizens' personal income. Thus, the Revenue Office issued a new decision and informed the bank to unfreeze the claimant's bank accounts.

However, considering that this is not an isolated case and that the negligent work of competent officials at the Public Revenue Office has caused violations of clear legal obligations on multiple occasions while on official duty, there is still a need to sanction these types of issues.

DEPARTMENT FOR ADMINISTRATIVE PROCEDURE ALTERS EFFECTIVE COURT DECISIONS WITHOUT PRIOR NOTIFICATION OF ALL INTERESTED PARTIES

Acting upon the request of individuals involved in the case matter, the Department for Administrative Procedures – Karpos annulled the decision issued back in 1969 by the former Parliament of the city of Skopje. In doing so they have revoked the adverse possession of nationalized construction land, which has yet to be used for construction means and have made unilateral changes to the decision to grant the use of that land from 1990. In any case, the interested parties were not notified on either of these two decisions issued by the Department, and these parties were already granted with the use of the land in question. Instead, the Department has verified both decisions with a confirmation to execute and they were registered in the cadastre for real – estate property.

The Ombudsman has reviewed the disputable procedure and found that the rules on procedures were not properly followed and furthermore, the decision was made taking all the facts and circumstances into considerations which is a basis enough to request a renewal of the entire process.

Upon the Ombudsman's intervention, the Department agreed that the case is disputable and presents an unsolved property – legal issue so the procedure was re-opened in order to gain a proper and complete insight of the factual state and to issue an adequate decision.

IDENTITY CARD AS PROOF OF PERMANENT RESIDENCE – CONDITION FOR PARENTS TO ENROLL THEIR CHILD IN THE FIRST GRADE

The Ombudsman has found cases when parents were unable to enroll their children in the first grade in schools located in the same district as their permanent place of residence, because the schools requested additional documents beside those stipulated in the law, such as their identity card with a resident address on the municipality's territory lasting more than a year, proprietary evidence and other documents proving the child lives in the same region as the school and all of these requirements are based on the acts placed forth by the council of the municipality – founder of the school.

The Ombudsman indicated that this condition for the child i.e., the parent being a permanent resident in the region of the school for at least a year is a clear violation of the legislation and presents a real problem for parents who want to enroll their child/ren in the first grade at the school in the region they reside in. However, despite all the Ombudsman's efforts and interventions with all the competent bodies, this problem is left unsolved and parents were forced to enroll their children in schools located much further from their place of residence.

VIOLENCE AMONG STUDENTS IN AND OUT OF SCHOOLS CONTINUES

Verbal and physical conflict among children demonstrates that violence remains a complex issue in need of a more comprehensive analysis in order to isolate the roots of aggression among children as well as the reasons behind the aggression of education personnel towards children. This issue is yet to be solved in a normative manner so every school is left on their own to find a proper solution and to ensure a safe school environment with the financial cost of course being covered by the parents. The competent bodies need to establish a precise and efficient mechanism for prevention of any type of violence in regards to children because this issue can have long-lasting negative effects on their normal development.

The Ombudsman has requested that the Minister of Education and Science finds a systemic a normative solution to this problem of security in the school environment.

On the topic of violence exerted on children and present among children, the Ombudsman held a round table discussion and pointed out that the family and the schools are obligated to provide the children with a safe and secure environment and to educate them on non – violent behavior, while the society (community) should actively strive to reduce all forms of violent behavior and promote healthy lifestyles.

THE PUBLIC REVENUE OFFICE INDEBTS ALL MEMBERS OF A SINGLE HOUSEHOLD WITH THE PAYMENT OF THE BROADCASTING TAX

In September 2012, the Public Revenue Office delivered their august bill for the broadcasting tax throughout the country, but this time a large number of citizens received multiple bills for every member of their household.

After the preliminary inquiry, the Ombudsman found that this act represents a violation of the provision of the Law on broadcasting which states that the broadcasting tax is to be paid by every family household in the Republic of Macedonia, and not the individual members of said households.

Since this situation is the direct result of the behavior of competent institutions and citizens should not be forced to pay the consequences of these actions, the Ombudsman has indicated that the public enterprise "MRT" and the Public Revenue Office need to take proper measures and actions to surpass this problem as it is their official duty and to revoke their prior decision regarding the matter.

Upon the Ombudsman's interventions, both institutions have begun to work on removing the ascertained irregularities.



THE INQUIRY ON RIGHT TO WORK OF PEOPLE WITH SPECIAL NEEDS DEMONSTRATED THE FOLLOWING:

There are good laws and bylaws which regulate the right to employment of individuals with special needs but these regulations lack consistent and complete practical implementation.

Data show that in real life, these individuals are faced with stereotypes and prejudice when trying to exercise their right to employment, but neither the employers nor the individuals seeking employment are sufficiently aware of the rights, obligations and responsibilities covered by labor relations. The work of monitoring bodies has proven to be disappointing and as a result people with disability are discouraged from reporting any violations in regards to this matter. For the most part, the disappointed is related to the long duration of procedures handled by the Commission in charge of issuing diagnosis and insights during the first employment of these individuals or during their transfer from one employment position to another. It has also been found that no adequate conditions and employment opportunities exist for people with disability especially when it comes to the employment of these individuals in the so – called Protected Trading Associations, or in the public or government institutions.

BOTH FEMALE AND MALE CHILDREN VICTIMS OF SEXUAL ABUSE AND EXPLOITATION

Children between the age of 14 to 16 are the most common victims of sexual abuse and sexual exploitation, and belong to the highest risk group of becoming orphans or children without parental care, neglected children, homeless children, children addicted to drugs, poor children and children with educational and social problems excluded from the educational system.

According to the Ombudsman's inquiry, children of female gender are the most common victims of sexual abuse and exploitation, but the number of molested male children should not be neglected as well. The victim's age falls into the 14 – 16 range whereas the number of victims of younger age is not as large, and most commonly these children belong to the Macedonian or Roma ethnic groups, have either primary education or no education at all, and come from poor, dysfunctional, conflicted and socially endangered families, and part of them come from families with a history of family violence.

Measures must be taken to eliminate or reduce the causes that lead to such abuse and exploitation of children, along with preventative steps in order to protect and rehabilitate the generate welfare of children and to respect their best interest without discrimination which is one of the most fundamental principles for fulfilling and protecting the rights of every single child.

CHILDREN ARE EXPOSED TO INFORMATION WITH HARMFUL EFFECT ON THEIR NORMAL PSYCHO – PHYSICAL DEVELOPMENT ON A DAILY BASIS

The Ombudsman carried out an inquiry on the basis of which it has been ascertained that children are constantly being exposed to information that is not only harmful to the process of shaping their behavior, but is also seen as harmful from a psychological point of view and has a negative effect on their normal growth and development.

During the round table discussion addressing this issue, the Ombudsman recommended that the competent bodies should be more serious and consistent in fulfilling their role of providing children with information that contributes to their normal development and to protect them from information that may cripple their development and attitudes. It is extremely important that the information which reaches children and the youth is meant to guide the formation of proper attitudes towards animals and social values and to contribute to the development of healthy individuals. In order to achieve this goal it is vital that the different types of media incorporate a larger amount of educational shows and programs aimed to educate both children and adults.

ALONGSIDE COMPETENT INSTITUTIONS, PARENTS TOO SHOULD LOOK AFTER CHILDREN'S RIGHTS AND BEST INTEREST

The abovementioned has been confirmed by the Ombudsman's inquiry in relation to the right to personal contacts between a child and a parent the child does not live with and the same conclusions were reached at the round table discussions held on this topic. It was found that the Centers for Social Work fail to take immediate actions in cases of conflict between parents and in doing so they limit the child's right to personal contacts with the parent the child does not live with. These actions may instigate resistance in the child who will later on refuse to see the parent they do not live with and the process of eliminating this resistance is usually time – consuming and taxing and the reason why the Center for Social Work has a practice of dismissing cases such as these.

According to the Ombudsman, when dealing with issues of children's rights, especially the right to personal contacts with the parent the child does not live with, the competent bodies and families should always give the child's best interest the utmost priority.



PUBLIC RELATIONS AND INTERNATIONAL ACTIVITY

This year as well, the Ombudsman has ensured that his public presence is seen and has expressed his opinion and attitudes on multiple occurrences and issues present in the society, and has always emphasized the importance of respecting, fulfilling and protecting all human rights and freedoms.

During the report year, the Ombudsman has continued with the realization of his projects and activities aimed to promote human rights and freedoms, and used his competences to inform citizens on the manner and mechanisms of efficient fulfillment and protection of their rights and freedoms.

In addition, the Ombudsman has taken a step further towards getting closer to citizens and has established direct and immediate contact with them by participating in a series of ten talk-shows, each dedicated to a specific domain from the Institution's competence, where citizens were able to get answers to their questions and get help in the process of solving their problems.

By informing citizens on their roles in a contemporary and democratic society, the Ombudsman has also intervened with institutions and bodies within his own competence so they can take timely measures and activities to protect the citizens' rights and freedoms.

It is worth mentioning that in 2012 the Institution undertook several projects which have been successfully completed, and were supported by the Royal Netherlands Embassy in the Republic of Macedonia, "Save the Children", Swedish International Development Agency (SIDA) and the OSCE Mission in the Republic of Macedonia as well as the twinning project supported by the EU pre-accession funds in collaboration with partner institutions from Spain

and France.

With the support of the Swedish International Development Agency (SIDA) and the OSCE Mission in the Republic of Macedonia, the Institution has participated in several workshops and training sessions aimed to strengthen the capacity of the Department for non – discrimination and adequate and equitable representation. The project allowed the employees at the Department to carry out a study visit to Sweden and get acquainted with the manner of work of their colleagues and to be directly introduced to the operational method of other institutions and bodies acting in the field of antidiscrimination.

The project supported by the Royal Neth-



erlands Embassy in the Republic of Macedonia has contributed to strengthening the capacities of the Department for protection of children's rights and rights of persons with special needs as well as the Department for non – discrimination and adequate and equitable representation. Round table discussion were held on the topic of children's rights, and special promotional events were held in order to promote and distribute the competence of the Department for non – discrimination and the Commission

for Protection against Discrimination. Multiple printed materials were published under this project as well as two editions of the Ombudsman's Newsletter.

The theatrical show "Same in a different way" was performed again after twelve different performances in Skopje, as well as other cities throughout the republic in Macedonian and Albanian language as a support and promotion of this project.

This year, the Department for protection of children's rights and rights of persons with special needs was actively involved in research, and an inquiry was made in support of "Save the Children" aimed to protect children from sexual and other types of exploitation. With the support of the Children's Rights Ombudspersons' Network in South and Eastern Europe (CRON-SEE) the institution participated in all the meeting among ombudsmen from different countries on the topic of children's rights.

By the end of the year, the activities foreseen by the Twinning project of the European Union have been completed, related to the partnership of the National Ombudsman of Spain and the Protector of Citizens' Rights of the Republic of France. Round table discussions were also organized on the topic of children's rights and antidiscrimination, and the institution has been visited by many expert missions with the purpose of conveying their knowledge and expertise. The employees at the Departments for chil-



dren's rights and antidiscrimination participated in two study visits within the project's framework in Paris and Madrid. As result of the successful completion of the twinning project, the Ombudsman was honored by the President of the Republic of France, François Hollande and his Highness the king of Spain, Juan Carlos the First.

This year as well, the Institution has continued to be actively involved in the international meetings of associations of ombudsmen and mediators as an active member with a right to vote and has participated in the coordination meeting organized by the Council of Europe, OSCE/ODIHR and the European Union, dedicated to the protection of minority rights and encouraging regional cooperation in this field of area.

Representatives from the institution have taken participation in the promotional event marking the beginning of the regional project for protection of minority rights held in June in Budva – Montenegro, as well as the regional TAIEX workshop dedicated to the role of Ombudsmen and the access to public information held in Stockholm. Among other matters, the institution has had its representative at the regional conference dedicated to gender equality held in Sarajevo and organized by OSCE and ODIHR, as well as a regional workshop under the auspices of the Council of Europe dedicated



to the role of Ombudsmen in the protection of internally dislocated individuals.

The activities of the institution on an international level will continue this report year through its participation in a number of international events of bilateral and multilateral – international plan, as well as within the frameworks of the associations it is a member of (International Ombudsmen Association (IOA), Association of Ombudsmen and Mediators from Francophone – AOMF, The European Ombudsmen Institute (EOI) and the Association of Ombudsmen from the Mediterranean – AOM), in order to exchange experiences and good practices to advance its skills and perform its function in a more effective manner.

Namely, over the course of the next year, the institution will continue to promote its competences, as well as to strengthen its capacities, by organizing several events with the financial support of the European Union (IPA funds and TAIEX), as well as the support it has enjoyed for years from the OSCE Mission and ODIHR in this country.

The planned activities for the following year are dedicated to organizing more thematic workshops, in order to improve the cooperation between the National Preventative Mechanism and the bodies and institutions within its competence and to find solutions for the current issues in places for deprivation of liberty.

The institution's plans also foresee the participation of a large number of experts coming from member states of the European Union, the region and on international level all of which are dedicated to the prevention of torture and other cruel, inhuman and degrading treatment and punishment.

The institution will organize multiple workshops on relevant topics, and will protect the electoral rights of citizens during election. Furthermore it will organize round table discussion to promote the mechanisms for protection against discrimination including those at the disposal of the Department for Non – Discrimination as well as the Department for Protection of Children's Rights, and there are plans to investigate the current inclusion of children in the educational system with a special focus on children from the Roma community.

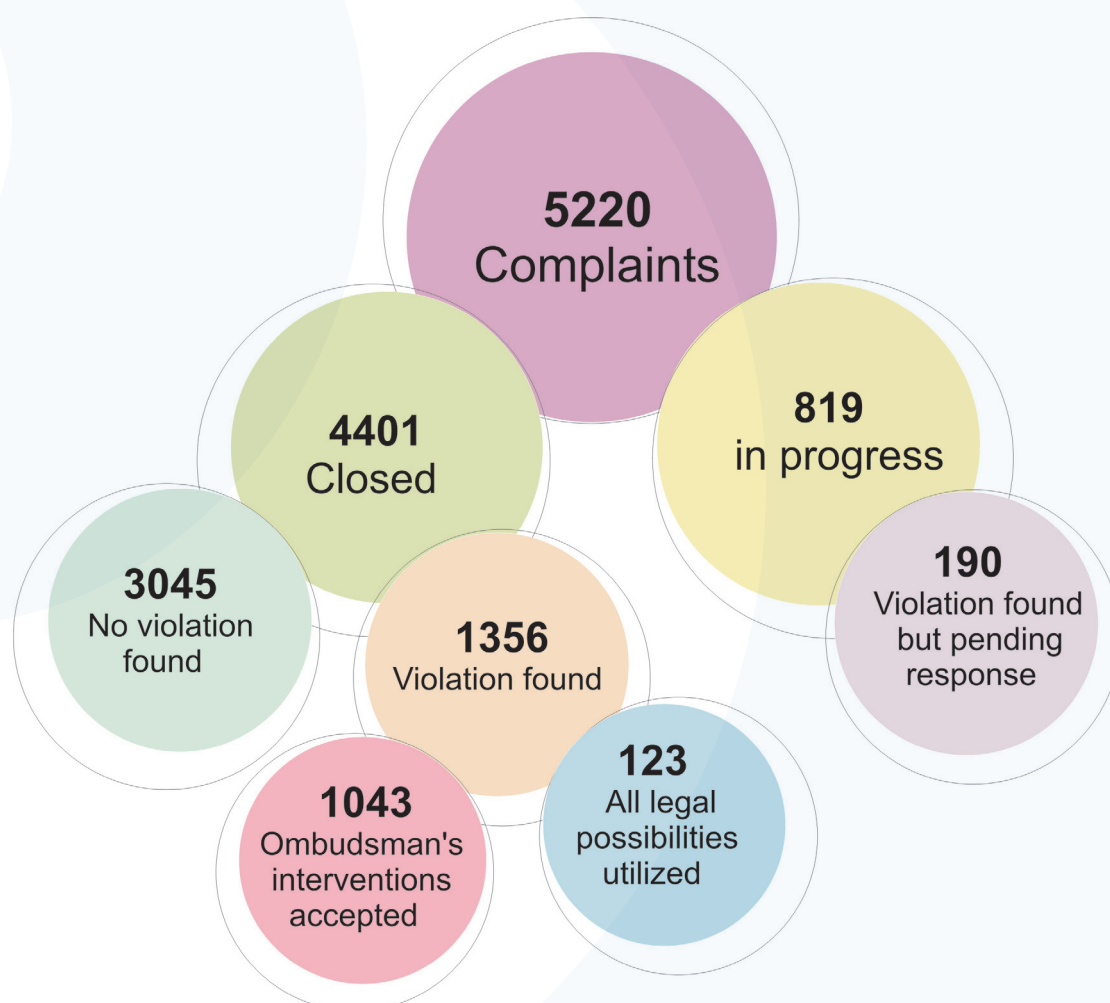
Several study visits will be carried out over the course of the next year by the employees at the Ombudsman's Institution in order to ex-

change experiences and gain international experience and knowledge.



STATISTICAL DATA

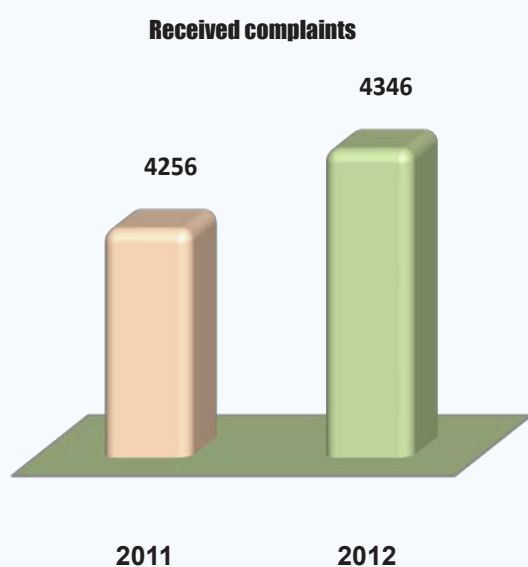
This report year, same as the year before, the number of complaints received has been increased. This increase is not only due to the improved awareness of citizens in regards to their rights and freedoms and the competences of the Ombudsmen to ensure the effective fulfillment and the protection of their rights but also the poor level of respect when it comes to the fulfillment and protection of citizen's rights and the poor quality of the operation of the public administration and all other bodies and organizations with a public mandate.





GENERAL DATA

Chart no. 1



In 2012 the Ombudsman acted upon a total of 5220 complaints. In this report period 4346 complaints were submitted by 4778 citizens and the remaining 874 cases were transferred from the previous report year. In 12 cases the Ombudsman has instigated procedures following his own initiative. (Chart no.1).

Namely, the office in Skopje and the regional offices received more than 7200 citizens for interviews, and answered more than 7600 phone calls.

The number of received complaints during this report year has increased by 2% in comparison to the complaints received during the previous report year.

Chart no. 2

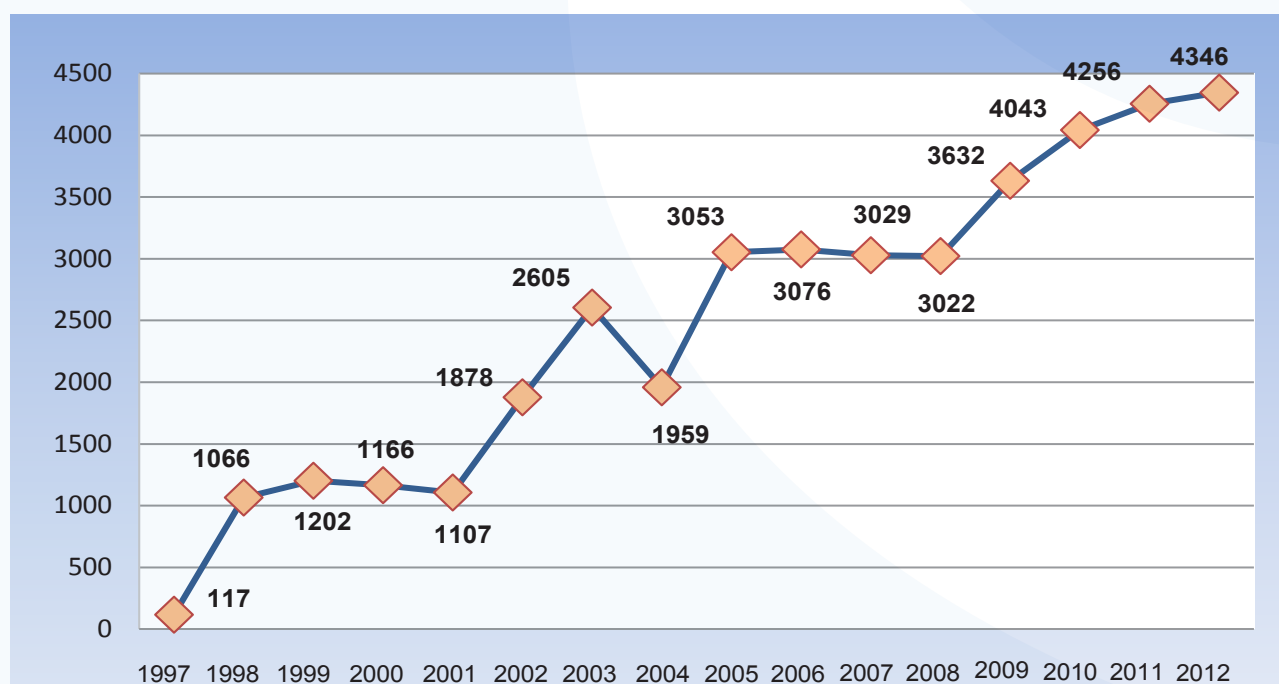
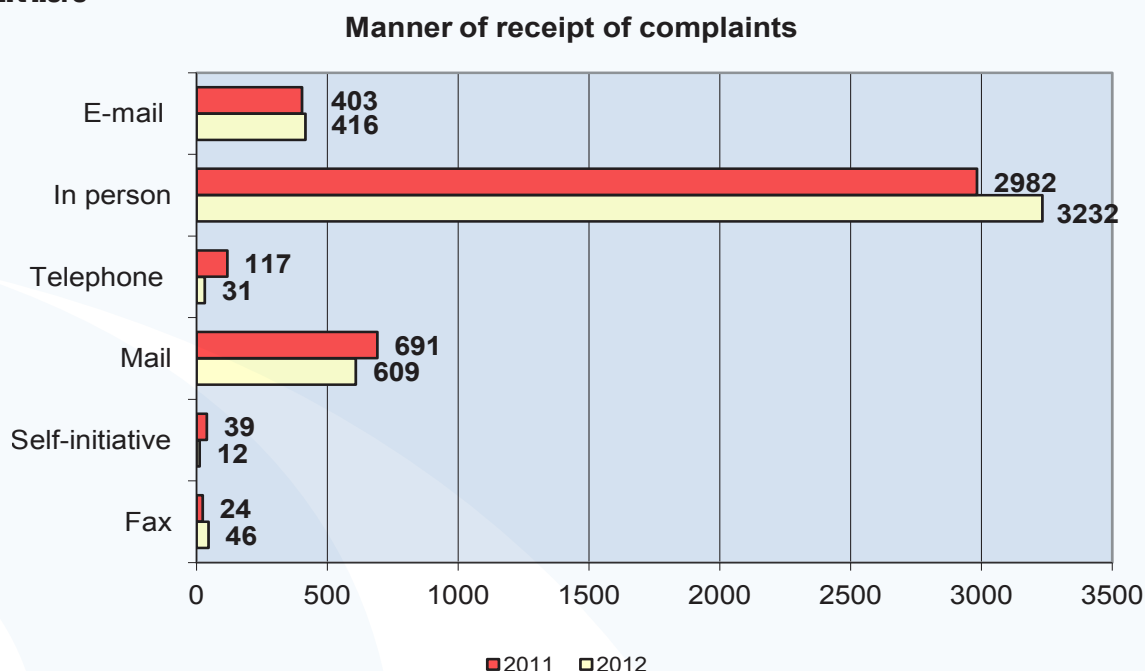


Chart no. 3



In the course of this report year, the majority of complaints, that is 3232, were submitted in person at the Ombudsman's offices, followed by 60- complaints received by mail, 285 by e-mail, 131 via the Ombudsman's website, 46 complaints via fax, 31 by telephone and 12 complaints were formed while acting upon self-initiative. (Chart no.3).

5.220
complaints acted
upon

DATA ACROSS DOMAINS

The majority of received complaints (948 or 21,81%) referred to the consumers' rights domain and related to the electricity, heating and water supply and other communal services, broadcasting tax, fixed and mobile phone lines and other; in the judiciary domain 710 or 16,34%, the majority of which referred to a disappointment with court's decisions even though the Ombudsman does not have the competence to intervene in such cases, while others were related to the violation of the trial within a reasonable time principle by judicial bodies and the illegal operation of other bodies and organizations with public mandate: labor relations 306 or 7,04%, and the majority of which related to employment, establishing employment status, transformation of labor relations, delegation: penitentiary – correctional and educational – correctional institution 278 or 6,40% related to poor accommodation conditions, treatment and commodities; property – legal 272 or 6,26% related to denationalization, privatization of construction land, expropriation; pension and disability insurance 241 or 5,54% related to the fulfillment of the right to pension, financial compensation, delay of procedures; social protection 240 or 5,52% related to social welfare, delay of procedures; police procedures 220 or 5,06% related to lack of measures taken upon received claims from citizens and abuse of police authority; health protection 166 or 3,82% related to reimbursement of medical expenses, payment of fees and delay of procedures; children's rights 161 or 3,70% related to the inability to maintain personal contacts,

family and other type of violence and exclusion from the regular educational system; civil states and other interior issues 156 or 3,59% related to determining citizenship status and confiscation of objects; urban planning and construction 155 or 3,57% related to the legalization of illegally built constructions and disrespect of regulatory acts; finances 130 or 2,99% related to broadcasting tax and other taxes and tariffs; housing relations 57 or 1,31% related to the fulfill-

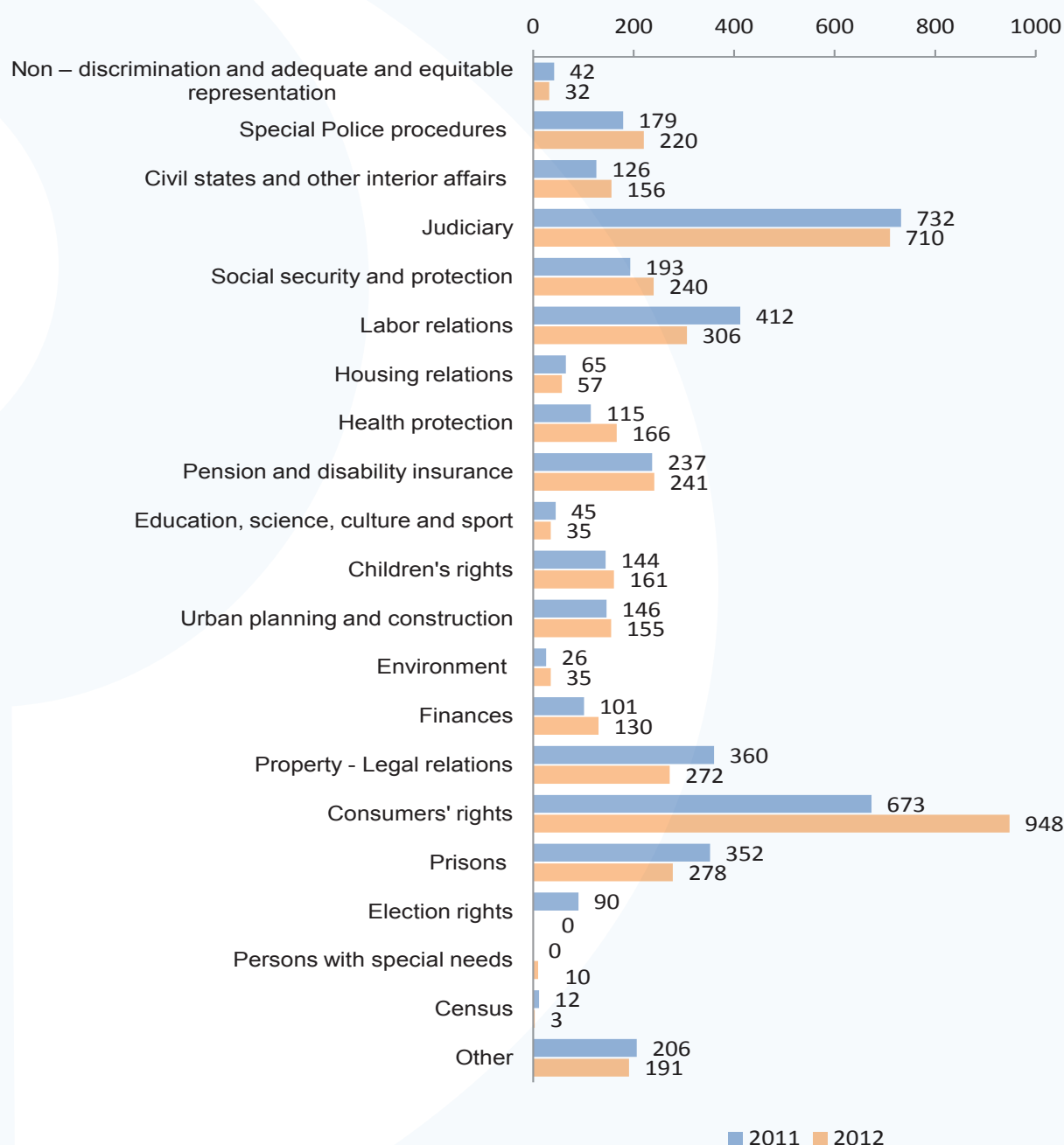
Review no.1

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2012 ACROSS DOMAINS																	
AREA	Received in 2012	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Number of formed case upon a self-initiative	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending case
							With a decision for closing or not-initiating a procedure	Closed in other manners	Violations found								
									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					
Non-discrimination and adequate and equitable representation	32	32	14	46			26		9	8		1			1	34	12
Police procedures	220	228	40	260			185	2	24	16	3	5				206	54
Civil states and other interior affairs	156	156	60	216			95	7	73	60	3	10				165	51
Judiciary	710	826	95	805	1		608	3	103	97	4	2				713	92
Social protection	240	244	55	295			143	6	108	98	2	8	1			249	46
Labor relations	306	385	65	371	1	1	204	7	98	54	13	31	3	2	1	279	92
Housing relations	57	57	6	63			36		24	23	1					60	3
Health protection	166	169	52	218	1		100	1	85	66	2	17	18	1		170	48
Pension and disability insurance	241	241	57	298	1		132	5	120	93	6	21				237	61
Education, science, culture and sport	35	34	7	42	1		26		12	8		4	1			35	7
Children's rights	161	158	18	179	1	2	116	9	48	39	3	6	8		1	168	11
Urban planning and construction	155	184	47	202			129	7	28	16	1	11			3	153	49
Environment	35	61	1	36	1		21		8	5	2	1	1			29	7
Finances	130	131	29	159			97	1	47	38	3	6			2	139	20
Property – legal relations	272	288	89	361			207	1	110	73	11	26	7	1	1	292	69
Consumers' rights	948	1066	153	1101	1	3	672	16	330	233	65	32	3		4	987	114
Penitentiary – correctional and educational – correctional institutions	278	277	34	312	3	6	192	6	84	79	2	3	2		2	282	30
Persons with special needs	10	10		10			4		4	4						8	2
Census	3	3	1	4			4								1	4	
Other	191	228	51	242	3		145	8	41	33	2	6				191	51
TOTAL:	4346	4778	874	5220	14	12	3142	79	1356	1043	123	190	44	4	16	4401	819

ment of the right to a home and delay of procedures; education, science, culture and sport 35 or 0,81% related to student scholarships, nostrification and degree equivalency; environment 35 or 0,81% related to unprofessional behavior of inspection services; non - discrimination and adequate and equitable representation 32 or 0,74% related to the rights to labor relations on ethnic basis; persons with special needs 10 or 0,23% related to the right to treatment abroad, procurement of medication at one's own expense and delay of procedures; census 3 or 0,07% as well as 191 or 4,39% complaints from other areas related ignoring a submitted request, demands from legal entities and others. (Review no.1 page. and Chart no.4)

Chart no.4

Data across domains

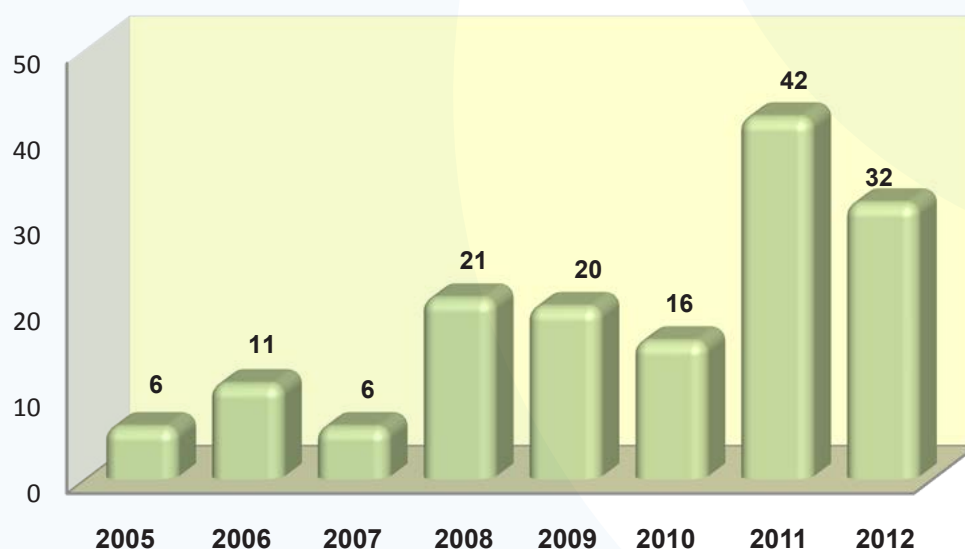


The review of the complaints submitted this report year indicates a slight increase in the total number of complaints in certain domains and an insignificant decrease or increase in comparison to the number received the year before, except in the health protection domain where the number of complaints submitted has increased by 44,34%. The continuous increase of complaints in the course of the last few years in the consumers' rights domain should not be neglected, and this year the numbers have increased by 40,85%. This report year has witnessed an increase in the number of complaints received in the finances domain i.e. number of received complaints has increased by 28,71% followed by an increase of 24,35% in the number of complaints received in the social protection domain. (Review no.1)

Review no.2

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS PER YEARS																
	Transferred from the previous year	Received during current year	Number of complainants	TOTAL in progress	Anonymous	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending
						With a decision for closing or not initiating a procedure	Closed in other manners	Violations found								
								Opinion, suggestions and recommendations provided	Acted upon the Ombudsman's interventions	All legal activities taken by the Ombudsman	No activities taken upon the Ombudsman's interventions					
2012	874	4346	4778	5220	14	3142	79	1356	1043	123	190	44	4	16	4401	819
2011	818	4256	4711	5074	26	2876	72	1361	1066	160	136	56	16	25	4200	874

Chart no.5

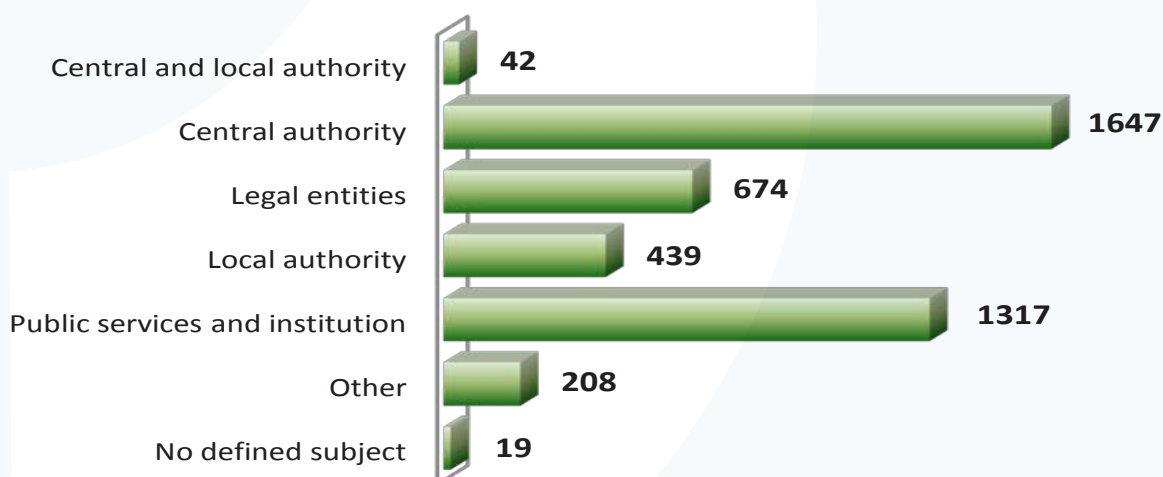


This report year, 32 complaints were received by citizens claiming they are unable to fulfill their rights to labor relations because of their ethnicity. In nine of these cases, a violation of the rights to labor relations was found based on the ethnicity of the complainants and the Ombudsman issued indications and recommendations, eight of which have been accepted and only one case is still open pending reply.

Based on the enforced procedures for protection against discrimination, the Ombudsman ascertained that the unequal treatment of citizens on behalf of the employers is most common in labor relations' domain. (Chart no.5)

Chart no.6

Out of a total of 161 complaints received in the children's rights domain, 73 or 45,34% referred to family right, 24 or 14,91% to violation of other rights in educational institutions, 14 or 8,70% to social protection, 12 or 7,45% to physical and psychological harassment of children at schools or institutions, 12 or 7,45% to family and other type of violence against children, 5 or 3,11% to health protection, 5 or 3,11% to rights of persons/children with special needs, 4 or 2,48% referred to sexual abuse, 3 or 1,86% to delay of procedures and 9 or 5,59% to other children's rights. (Chart no.6)

Chart no.7

Out of the total number of 4346 complaints, the majority of which, that is 1647 or 37,90% referred to violations made by central authority bodies, 1317 or 30,30% to violation made by public services and institutions, 647 or 15,51% to violations made by legal entities, 439 or 10,10% made by local authority, 42 or 0,97% to violations made by the bodies of central and local authority, 19 or 0,48% were seeking legal advice, and 208 or 4,78% complained of violations of rights by other subjects. (Chart no.7)

Review no.3

REVIEWS OF RECEIVED COMPLAINTS ACROSS CITIZENS AND STATES OF FOREIGN COMPLAINANTS					
	Year 2011	Year 2012		Year 2011	Year 2012
Berovo	8	5	Negotino	16	17
Bitola	532	615	Ohrid	82	94
Bogdanci	5	2	Pehcevo	9	5
Valandovo	6	7	Prilep	132	107
Veles	69	57	Probistip	26	15
Vinica	3	13	Radovis	40	19
Debar	11	19	Resen	21	18
Delcevo	19	10	Skopje	1923	1907
Demir Hisar	18	17	Struga	46	82
Demir Kapija	4	2	Strumica	97	93
Dojran	2	2	Sveti Nikole	13	10
Gevgelija	38	31	Tetovo	205	200
Gostivar	91	70	Stip	115	106
Zletovo	2		Albania	1	-
Kavadarci	42	36	Bosnia and Herzegovina		1
Kicevo	156	166	Great Britain	1	-
Kocani	16	28	Germany	1	-
Kratovo	6	5	Kosovo	1	1
Kr. Palanka	36	21	Serbia	2	5
Krusevo	10	9	France	1	-
Kumanovo	261	286	Netherland	1	-
M.Kamenica	3	9	Turkey	-	1
Mak.Brod	17	18	No city or state selected	165	233
Mavrovo	3	4			
TOTAL				4256	4346

According to the complainants' place of residence, the majority of complaints are from Skopje that is 1907, followed by the complaints received from Bitola, Kumanovo, Tetovo, Kicevo, Prilep and other major urban areas. It is noticed that the majority of complaints were submitted by citizens who reside in the same areas as the regional offices of the Ombudsman. (Review no.3)

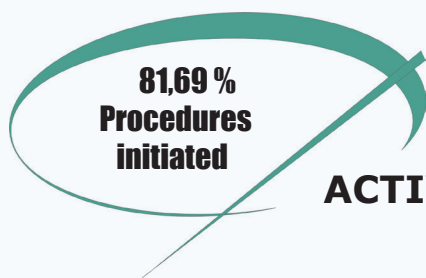
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Review no.4

REVIEW OF COMPLAINANTS ACROSS DOMAINS BASED ON ETHNICITY															
	AREA	Complaints received in 2012	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
1	Non- discrimination and adequate and equitable representation	42		2	2	49	7	5		1	1				4
2	Police procedures	179	3	2	2	210	75	21		14				7	4
3	Civil states and other interior affairs	126			1	132	24	56		9		3		2	7
4	Judiciary	732	2		6	747	334	81	5	8	2		1	17	3
5	Social security and protection	193				209	90	44	2	18		1		4	1
6	Labor relations	412	1		6	493	184	51	3	6		3	1	4	
7	Housing relations	65			1	72	24	5		3				2	3
8	Health protection	115			1	116	54	13	4	1	1		1	1	2
9	Pension and disability insurance	237			1	247	122	31		8		1		5	1
10	Education, science, culture and sport	45			2	69	27	5		1	1			1	
11	Children's rights	144	1	5	16	131	33	13		3	2	3		2	1
12	Urban planning and civil engineering	146			1	180	72	9	1	1				2	1
13	Environment	26		1	3	22	11	1							
14	Finances	101	1	1	2	98	48	11	1						
15	Property-legal relations	360		1	5	401	148	35	3			2	7	4	1
17	Consumers' rights	673	1		10	687	281	74	7	11	1	2	4	7	5
18	Penitentiary – correctional and educational – correctional institutions	352	1	26	3	414	15	14		2					
19	Election rights	90	15	1	5	78	2		1						
20	Census	12				12	2								
21	Other	206	3		13	199	74	22	4			1	2	3	2
	TOTAL:	4256	28	39	80	4565	1627	491	31	86	8	16	16	61	36

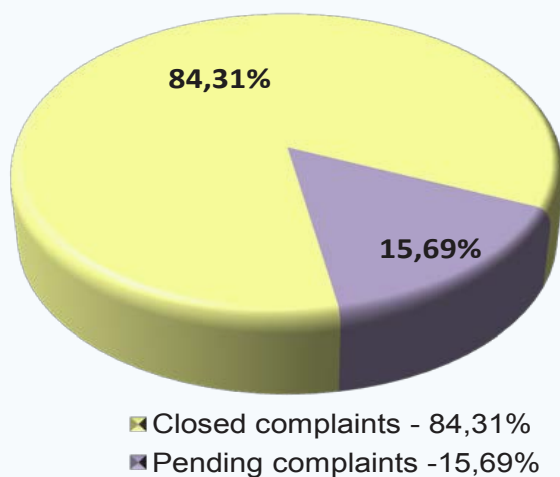
The majority of complainants who have declared their ethnicity are Macedonians, i.e., 1470 or 31.38%, 521 or 11.12% are members of the Albanian ethnic community, 2 or 0.04% were submitted by Macedonians- Muslims, while 2404 or 51.31% of the complainants have not declared their ethnicity. It can be concluded that the number of complainants who do not declare their ethnicity continues to be a large one. (*Review no.4*)

A slight decrease in the number of citizens who do not declare their ethnicity can be noticed.



ACTIVITIES BASED ON COMPLAINTS

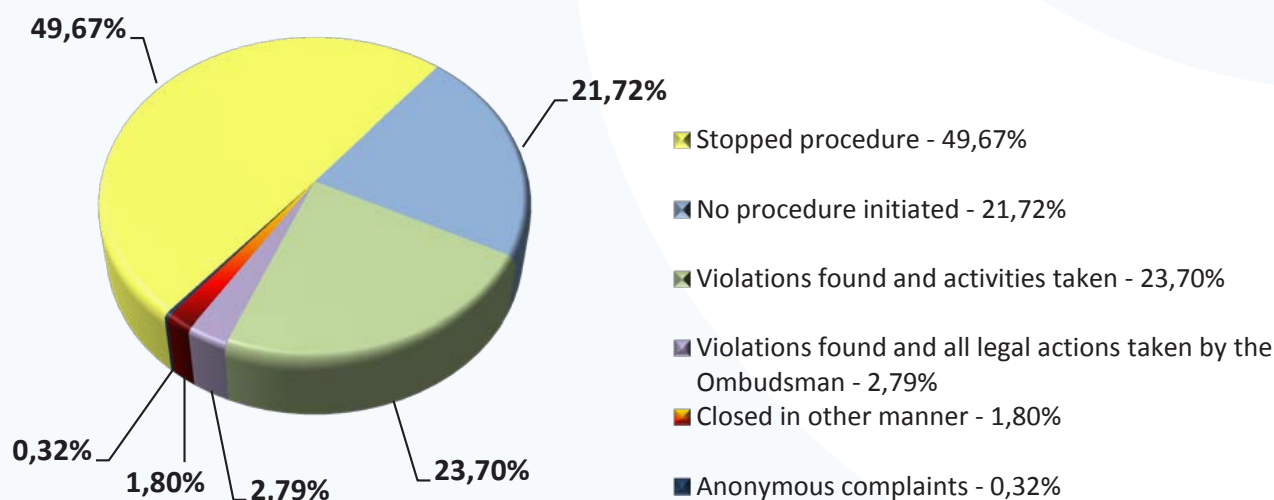
Figure no.1



The Ombudsman acted upon complaints in accordance with the Law on Ombudsman and all other material laws depending on the area the complaints related to. When the citizen has submitted sufficient documentation to ascertain the factual situation, that is the violation or infringement of a certain right, the Ombudsman took immediate actions in accordance with his competences. If additional explanation was needed to ascertain the factual condition, proper requests were submitted to competent bodies or to the complainants. In the majority of cases the factual condition was determined by performing insight in situ and a number of officials and other individuals were called in for interviews.

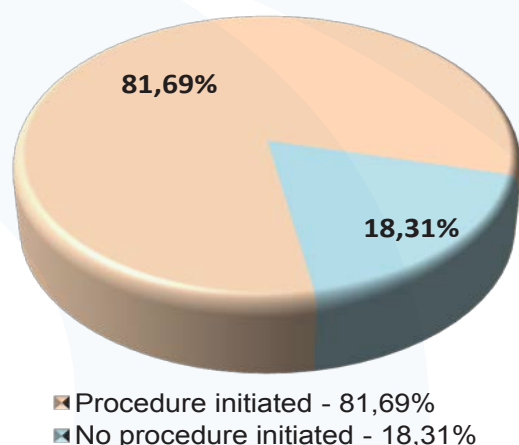
Out of the total of 5220 complaints that the Ombudsman has acted upon, the procedure has been completed for 4401 complaints or in 84.31% of the cases, while the procedure for 819 or 15.69% of the complaints is still in progress. (Figure no.1)

Figure no.2



Out of the total number of 4401 closed complaints, for 2186 complaints or in 49.67% of the cases the procedure was stopped, in case of 956 complaints or in 21.72% of the cases no procedure was taken, and for 1043 or 23.70% of the complaints the actions were taken after the Ombudsman has found violations of citizen's constitutional and legal rights. In 123 or 2.79% of the cases, the Ombudsman has taken all necessary legal actions himself, 79 or 1.80% of the complaints were closed in some other manner, and 14 or 0.32% of the cases were closed without taking any measures since the complaints were submitted by anonymous complainants. (Figure no.2)

Figure no.3



Out of 1356 complaints where the Ombudsman has found violations of the citizens' constitutional and legal rights and freedoms, in 1043 or 76.92% of the cases measures were taken after the Ombudsman's intervention, in 190 or 14.01% of the cases no measures were taken upon the Ombudsman's intervention, and in 123 complaints or 9.07% of the cases the Ombudsman himself took all necessary legal actions.

In 2012, the Ombudsman has acted upon a 4264 or 81.69% of the complaints, out of a total of 5220 complaints, and in 956 or 18.31% of the cases no procedures were initiated.

These statistical data indicate that there are still a large number of citizens who are insufficiently aware of the institution's competences. (Figure no.3)

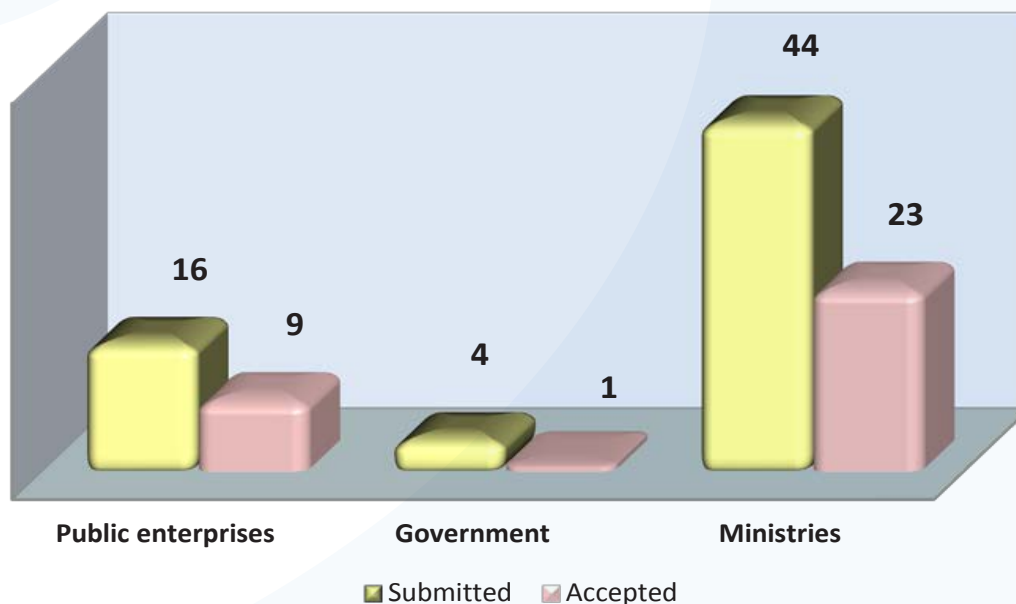
Out of the total of 4264 complaints upon which the Ombudsman has initiated procedures, 3445 or 80.70% of them are now closed, and the procedure

for 819 complaints or in 19.21% of the cases the procedure is still in progress.

This is due to the complexity of the problem and the need of a more detailed investigation in order to establish the factual situation, but it is also a result of the late actions taken by certain bodies and organizations in regard to the requests for information sent by the Ombudsman or the request for some other intervention and adequate activities.

Chart no.7

Information submitted by the Ombudsman



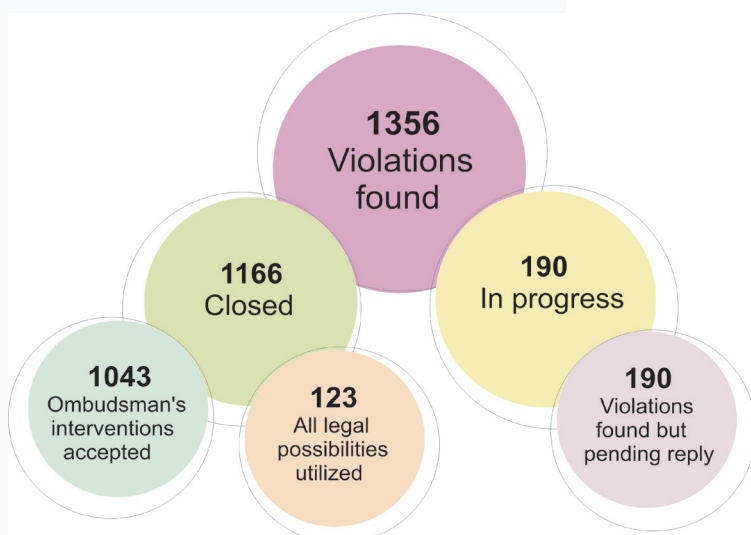
The late actions of certain competent bodies is still a problem despite the stated obligatory deadlines, but in some cases the delay of the procedure was a result of receiving formal response from the bodies and these did not allow for the factual condition to be ascertained.

Hence it can be stated that although there is an improvement in the attitude of the official individuals towards the Ombudsman's request, the necessary quality of cooperation with the Ombudsman is yet to be achieved.

In order to keep the procedure updated and to improve the overall situation, 16 pieces of information were submitted to bodies and organizations with public mandate, 9 of which were accepted, the competent ministries received 44 pieces of information and accepted 23 of them, and the Government of the Republic of Macedonia received 4 pieces of information and acted upon one of them.

Over the course of this report year as well, every three months, the General Secretariat at the Government of the Republic of Macedonia has continuously received information on the number of type of requests sent by the Ombudsman to the bodies of the Government of the Republic of Macedonia and the bodies within ministries.

This allowed for certain procedures led by the Ombudsman to be expedited, but the matter of fact is that much remains to be done in order to improve the quality of communication.



After ascertaining the factual condition of complaints submitted by citizens, and depending on the type of violation in regards to the citizen's right and freedoms, the Ombudsman has submitted: recommendations, suggestions, indications, proposals, opinions, requests and other interventions to all competent bodies in order to eliminate the irregularities and illegalities and to protect the citizen's rights and freedoms.

Out of the total number of complaints acted upon by the Ombudsman in 2012, in 1356 cases violations of the citizens' constitutional and legal rights were found. In 1043 cases (76.92%) the bodies

of state administration, other bodies and organizations with public mandate acted upon the Ombudsman's interventions, in 190 cases (14.01%) the procedure is still in progress and in 123 (9.07%) cases the Ombudsman took all the legal actions himself.

The majority of violations, 330 or 24.34%, in 2012 were found in the consumers' rights domain, and in 233 or 70.61% of these cases the bodies and organizations with public man-

date acted upon the Ombudsman's intervention. Next are the complaints regarding pension and disability insurance, where 120 or 8.85% of violations were found, and in 93 or 77.50% of them the Ombudsman's interventions have been accepted. Violations were found in 110 or 8.11% of the complaints in the property – legal relations domain, and in 73 cases of 66.36% the interventions were accepted; 108 violations or 7.96% cases were found in the social protection domain and in 98 cases or 90.74% of these, activities were taken upon the Ombudsman's intervention etc.

Figure no.4

Bodies which in the majority of cases have yet to take any activities upon the Ombudsman's interventions



Out of the total number of violations found, the Ministry of Interior, the local self-government units, public enterprises, departments and institutions, the Ministry of Finances, the State Commission for decision – making in administrative procedures and labor relations procedures in second instance, the Ministry of Health, the Ministry of Labor and Social Policy are seen as the ones to make the least effort when it comes to acting upon the Ombudsman's suggestions, recommendations and other interventions. (Figure no.4)

**More than 7200
citizens received
for interview**

CITIZENS AND THE OMBUDSMAN

The Ombudsman is an institution that is always open and available for citizens who face problems on a daily basis.

Thus, every work day, the office in Skopje, as well as the regional offices in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip received a large number of citizens and when a reasonable doubt existed in regards to violations of their rights and freedoms, the Ombudsman, his deputies and employees from the expert service immediately formed cases to initiate the necessary procedures.

However, in cases when no grounds for the Ombudsman's actions were found, the citizens

were given adequate legal advice on the manner they can fulfill or protect their rights and the name of the competent body. The majority of complaints in 2012 were received at the Ombudsman's office in Skopje that is 2751, followed by the office in Bitola which received 687 complaints, Kicevo 268, Tetovo 184, Strumica 104 and the office in Stip received 99 complaints.

In order to execute all procedures properly and with the highest efficiency, the Ombudsman's office in Skopje as well as the regional offices forward procedural cases to that office which has the ability to handle the procedure efficiently before the bodies on central and local level.

The Ombudsman's office in Skopje has acted upon 2511 complaints, Bitola office has acted upon 750 complains, Kicevo upon 320, Kumanovo 279, Tetovo 223, Strumica 133 and the office in Stip acted upon 130 complaints.

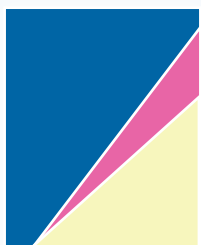
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REVIEW OF COMPLAINTS RECEIVED BY THE OMBUDSMAN'S OFFICES

AREA	Skopje		Bitola		Kicevo		Strumica		Tetovo		Stip		Kumanovo	
	Activities taken	Received complaints	Activities taken	Received complaints	Activities taken	Received complaints	Activities taken	Received complaints	Activities taken	Received complaints	Activities taken	Received complaints	Activities taken	Received complaints
Non-discrimination and adequate and equitable representation	26	27	5	4	1	1								
Police procedures	96	109	48	46	25	25	4	1	9	9	8	5	30	25
Civil states	69	76	27	25	9	8	1	1	12	11			38	35
Judiciary	292	349	127	114	136	121	24	22	51	39	35	24	45	41
Social protection	113	121	48	43	17	16	2	2	21	20	6	5	33	33
Labor relations	193	213	57	53	16	14	7	4	19	12	7	4	7	6
Housing relations	28	28	26	26								1	3	2
Health protection	119	118	18	19	5	5	11	11	6	5	3	3	4	5
Pension and disability insurance	113	114	47	46	15	15	23	22	20	17	5	10	18	17
Education, science, culture and sport	21	19	7	7	2	2	2	2	1	1	1	1	1	3
Children's rights	149	146	6	7	2	1		6		1	2	4	2	2
Urban planning and construction	87	103	20	17	18	12	8	3	8	7	4	3	10	10
Environment	17	20	11	9	2	2			2	2			3	2
Finances and customs	79	86	22	21	4	3	4	3	7	5	5	3	9	9
Property – legal relations	127	160	49	40	26	19	24	18	25	20	12	8	9	7
Consumers' rights	674	722	161	151	23	12	11	6	27	22	8	4	44	31
Penitentiary – correctional and educational – correctional institutions	204	220	27	20	6	4	5	3	4	5	32	22		4
People with special needs	10	10												
Census	3	2								1				
Other	91	108	44	39	13	8	7		11	7	2	2	23	21
TOTAL :	2511	2751	750	687	320	268	133	104	223	184	130	99	279	253



LEVEL OF PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS ACROSS DOMAINS



NON – DISCRIMINATION AND ADEQUATE AND EQUITABLE REPRESENTATION

Non – discrimination

The respect of human rights and the non – discrimination principle are considered to be the founding stone of democracy and social order and that is why it is especially important to protect the citizens' rights from this domain.

During this report year, the Ombudsman has undertaken a series of activities to promote and protect citizens from discrimination. For this purpose, the Institution has realized projects such as the theatre performance "Same in a different way", which was performed several times and contains the most common forms of possible discrimination; live talk-show on national level dedicated to discrimination, and citizens had the opportunity to get informed on the possible shapes of discrimination and ask direct questions; published a brochure entitled: "For Protection Against Discrimination" which contains a description of the basic terms and shapes necessary to recognize discrimination as well as the mechanisms for protection from discrimination, along with international standards and domestic articles for protection from discriminations, plus a special leaflet on protection from discrimination in seven different languages.

Furthermore, eight round table discussions were organized this report year in several cities throughout the Republic of Macedonia, with the purpose of promoting the role of the Department for Protection against Discrimination, but also to present the standards and procedures for protections against discriminations and to enforce the principle of adequate and equitable representation. These round table discussions were mainly intended for the employees in the public administration offices because their work entails following the law and other regulations. In addition it should be noted that communication was established with the Commission for Prevention and Protection from Discrimination, in order to coordinate the cases related to this domain.

The Ombudsman has states that by the end of this report year the number of cases related to discrimination was the same as the number from the year before. Even though during the report year, the Ombudsman has taken a series of activities to increase the citizens' awareness of this phenomenon and it shapes and forms, as well as the manner and mechanism of protection, it can still be said that the citizens do not recognize the shape of discriminations sufficiently. When we consider that the number of citizens who have requested protection is small despite of all the activities that have been undertaken in order to promote and protect their rights on discrimination, we feel that over the course of the following year it is crucial that we make comprehensive research in order to establish the reasons for this ascertained occurrence and to take the necessary measures and actions to overcome it.

When it comes to the subject matter, the Ombudsman has stated that discrimination is increasingly present in the labor relations domain, and the most common basis for discrimination

is ethnicity.

As a characteristic case that was acted upon by the Ombudsman during the report year in relation to non – discrimination, is the case formed by the Ombudsman's own initiative when he received knowledge on the existence of a writing in the 4th grade Macedonian language textbook from the nine – year obligatory education system, which contains certain prejudice and stereotypes about members of the Roma community. After completing an inquiry of the writing, the Ombudsman sent requests to the competent institutions and the Ministry of Education, and did not face positive acceptance of the initial indication to remove the writing from the textbook in questions, mostly because the National Textbook Commission has not had a session for a long period of time.

As a result of this approach from the institutions, the Ombudsman sent his recommendation to the Teaching Service and the National Textbook Commission and during their session held in June 2012 they have accepted the Ombudsman's recommendation and reached a Conclusion which advises against using the writing from the Macedonian language textbook in question.

Over the course of this report year, the Ombudsman has also dealt with several cases related to securing equal labor conditions. In those cases where the Ombudsman has ascertained visible violations of the complainants' rights, he has issued the appropriate indications and recommendations to the employers so that the problem is successfully solved. In the majority of cases the indications and recommendations issued by the Ombudsman were accepted, and the discriminated persons have realized their right to an equal treatment, while in several cases where the Ombudsman's opinion and recommendation was not accepted resulted in filing court procedures.

During this year as well, the Ombudsman has received many complaints on psychological harassment at the workplace – mobbing, but after the Ombudsman's inquiry no violations were found.

In order to determine the scope of conditions related to equal employment possibilities and the availability of managerial positions based on gender differences the Ombudsman has made an inquiry of the bodies within his full competence.

The collected data indicate that from the total of 107238 employees in the institutions, 9863 individuals are placed in managerial positions or 9.2%, while 97375 or 90.8% individuals are placed in non – managerial positions.

In relation to the degree of education, out of the total number of employees in the institutions that have submitted their data, 44.36% have university education, 5.34% have higher education, 39.3% have high-school level education and 10% have primary level education.

The Ombudsman, in relation to gender equality, has paid special attention to the data regarding the total number of employees based on their gender as well as the gender structure in relation to managerial positions. Data show that out of the total number of employees in the institutions, 56771 are men or 52.94% and 50467 are women or 47.06%. 55.22% of the managerial positions are occupied by males, and 44.78% of them are occupied by females, while 52.71% of non – managerial positions are occupied by males and 47.29% of them are occupied by females.

GENDER REPRESENTATION ACCORDING TO WORK POSITION						
	Total number of employees		Employees by gender			
			male		female	
		%		%		%
managerial positions	9863	9,2	5446	55,2	4417	44,8
non – managerial positions	97375	90,8	51325	52,7	46050	47,3
employees at the body	107238	100%	56771	52,9	50467	47,1

The research indicated that the ratio of employees on gender basis in the bodies, organizations, institutions and services from the public sector shows insignificant differences between the members of the female population in comparison to the members of the male population. The overall representation of the female gender in relation to the male gender was reduced by 5,94%, while the inequality in regards to managerial positions is much larger, with females having a 10,44% less representation as managerial staff in comparison to the members of the male population.

In order to improve the conditions from this domain, the Ombudsman recommends continuous effort to be made for equal gender representation, at the managerial as well as the non – managerial positions.

Findings

The number of citizens who report this type of unequal treatment – discrimination is still small, and the institutions do not pay enough attention on the cause of the violation.

Discrimination is present in the society and is especially visible in the labor relations' domain in relation to the citizens' rights based on their ethnicity.

Recommendations

Additional implementation of projects aimed to inform citizens and to strengthen the institutions' capacities in order to effectively prevent and protect against discrimination;

Enhancement of the legislation in this domain, as well as consistent and high-quality implementation of the material and process right in order to effectively prevent and protect from discrimination.

Adequate and equitable representation

Following the situation with the implementation of the adequate and equitable representation principle, the Ombudsman just like in the previous year, has made inquiry in order to determine the situation related to this fundamental value in the constitutional order in the Republic of Macedonia.

The Ombudsman has addressed all bodies of state authority, bodies of state administration, independent bodies and organizations, the local self – government units, health, culture and educational institutions, courts and prosecutions and other institutions and departments within his scope of competence, with requests and enclosed spreadsheets.

This report year, requests were submitted to 1101 institutions, and 1056 of them, or 95,91% have responded, which indicates that the number of received responses upon the Ombudsman's requests, has increased in comparison to previous years, but there are still a large

number of institutions that obstruct the Ombudsman's work from fulfilling his constitutional and legal competences.

Among the 45 institutions that impede the Ombudsman's work, in relation to the inquiry of the situation of this fundamental value in the constitutional order of the Republic of Macedonia are: The Joint Stock Company for Managing Commercial State property, Kavadarci municipality and other communal and educational institutions on local level.

From the received data, the Ombudsman has noticed a slight improvement in the implementation of the adequate and equitable representation principle especially at the independent state bodies, where the difference in comparison to the previous year on the total amount of employees has increased by 2355 individuals, i.e., the percentage of representation of the members of minority communities has increased by 2.3%, which is also true for the local self-government, where the number of increase of employees is 618 individuals, or 4.4%.

Furthermore, the data clearly state that the majority of institutions have not reached the satisfactory level of representation of all communities. This is especially true with the penitentiary – correctional institutions, the courts, prosecution offices and public enterprises.

The unsatisfactory level of respect of the adequate and equitable representation principle for the managerial positions has been seen again this year, same as before, especially at the public enterprises, public health institutions, funds and individual state bodies.

Spreadsheet review for the year 2012

		Total	ADEQUATE AND EQUITABLE REPRESENTATION															
			Macedonians		Albanians		Turks		Roma		Serbs		Vlachs		Bosniaks		Other	
			Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
The Cabinet of the President of RM – Expert Service	managerial positions	16	13	81,3	3	18,8		0,0		0,0		0,0		0,0		0,0		0,0
	non-managerial positions	28	25	89,3		0,0	1	3,6		0,0		0,0	2	7,1		0,0		0,0
	employees at the body	44	38	86,4	3	6,8	1	2,3	0	0,0	0	0,0	2	4,5	0	0,0	0	0,0
Parliament of RM – Expert Service	managerial positions	57	42	73,7	13	22,8	1	1,8		0,0		0,0		0,0		0,0	1	1,8
	non-managerial positions	207	157	75,8	41	19,8	2	1,0	1	0,5	4	1,9		0,0	2	1,0		0,0
	employees at the body	264	199	75,4	54	20,5	3	1,1	1	0,4	4	1,5	0	0,0	2	0,8	1	0,4
Ombudsman	managerial positions	33	21	63,6	8	24,2		0,0	1	3,0	1	3,0	1	3,0	1	3,0		0,0
	non-managerial positions	46	15	32,6	23	50,0	1	2,2	2	4,3	2	4,3	1	2,2	1	2,2	1	2,2
	employees at the body	79	36	45,6	31	39,2	1	1,3	3	3,8	3	3,8	2	2,5	2	2,5	1	1,3
State Commission for Prevention of Corruption	managerial positions	12	10	83,3	2	16,7		0,0		0,0		0,0		0,0		0,0		0,0
	non-managerial positions	12	7	58,3	3	25,0		0,0		0,0	1	8,3	1	8,3		0,0		0,0
	employees at the body	24	17	70,8	5	20,8	0	0,0	0	0,0	1	4,2	1	4,2	0	0,0	0	0,0
Constitutional Court of RM	managerial positions	18	14	77,8	2	11,1	1	5,6		0,0	1	5,6		0,0		0,0		0,0
	non-managerial positions	7	6	85,7	1	14,3		0,0		0,0		0,0		0,0		0,0		0,0
	employees at the body	25	20	80,0	3	12,0	1	4,0	0	0,0	1	4,0	0	0,0	0	0,0	0	0,0
Judicial Council of RM	managerial positions	31	22	71,0	5	16,1	1	3,2		0,0		0,0	1	3,2	1	3,2	1	3,2
	non-managerial positions	16	13	81,3	1	6,3	1	6,3		0,0	1	6,3		0,0		0,0		0,0
	employees at the body	47	35	74,5	6	12,8	2	4,3	0	0,0	1	2,1	1	2,1	1	2,1	1	2,1
Higher Administrative Court	managerial positions	14	12	85,7	2	14,3		0,0		0,0		0,0		0,0		0,0		0,0
	non-managerial positions	10	9	90,0	1	10,0		0,0		0,0		0,0		0,0		0,0		0,0
	employees at the body	24	21	87,5	3	12,5	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
Administrative Court of RM	managerial positions	31	22	71,0	7	22,6	1	3,2		0,0		0,0		0,0	1	3,2		0,0
	non-managerial positions	43	40	93,0	3	7,0		0,0		0,0		0,0		0,0		0,0		0,0
	employees at the body	74	62	83,8	10	13,5	1	1,4	0	0,0	0	0,0	0	0,0	1	1,4	0	0,0
Supreme Court of RM	managerial positions	26	20	76,9	4	15,4		0,0		0,0	1	3,8	1	3,8		0,0		0,0
	non-managerial positions	50	48	96,0	1	2,0		0,0		0,0	1	2,0		0,0		0,0		0,0
	employees at the body	76	68	89,5	5	6,6	0	0,0	0	0,0	2	2,6	1	1,3	0	0,0	0	0,0
Public Prosecution of RM	managerial positions	13	9	69,2	3	23,1		0,0		0,0		0,0	1	7,7		0,0		0,0
	non-managerial positions	14	12	85,7	2	14,3		0,0		0,0		0,0		0,0		0,0		0,0
	employees at the body	27	21	77,8	5	18,5	0	0,0	0	0,0	0	0,0	1	3,7	0	0,0	0	0,0

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		Total	ADEQUATE AND EQUITABLE REPRESENTATION															
			Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other	
			Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Macedonian Academy of Sciences and Arts - Skopje	managerial posts	5	5	100,0		0,0		0,0		0,0		0,0		0,0		0,0		0,0
	non-managerial posts	52	49	94,2	1	1,9	1	1,9		0,0		0,0		0,0		0,0	1	1,9
	employees at the body	57	54	94,7	1	1,8	1	1,8	0	0,0	0	0,0	0	0,0	0	0,0	1	1,8
Ministry of Interior Affairs	managerial posts	214	168	78,5	28	13,1	0	0,0	3	1,4	8	3,7	2	0,9	0	0,0	5	2,3
	non-managerial posts	11196	8814	78,7	1891	16,9	71	0,6	73	0,7	180	1,6	10	0,1	0	0,0	157	1,4
	employees at the body	11410	8982	78,7	1919	16,8	71	0,6	76	0,7	188	1,6	12	0,1	0	0,0	162	1,4
Ministry of Economy	managerial posts	84	62	73,8	19	22,6	1	1,2		0,0	1	1,2		0,0	1	1,2		0,0
	non-managerial posts	371	255	68,7	98	26,4	3	0,8		0,0	5	1,3	6	1,6	1	0,3	3	0,8
	employees at the body	455	317	69,7	117	25,7	4	0,9	0	0,0	6	1,3	6	1,3	2	0,4	3	0,7
Ministry of Environment and Spatial Planning	managerial posts	48	40	83,3	4	8,3	1	2,1	0	0,0	2	4,2	1	2,1	0	0,0	0	0,0
	non-managerial posts	144	83	57,6	56	38,9	0	0,0	0	0,0	2	1,4	0	0,0	0	0,0	3	2,1
	employees at the body	192	123	64,1	60	31,3	1	0,5	0	0,0	4	2,1	1	0,5	0	0,0	3	1,6
Ministry of Health	managerial posts	61	52	85,2	7	11,5		0,0		0,0		0,0		0,0		0,0	2	3,3
	non-managerial posts	140	52	37,1	81	57,9	2	1,4	1	0,7	2	1,4	1	0,7	1	0,7		0,0
	employees at the body	201	104	51,7	88	43,8	2	1,0	1	0,5	2	1,0	1	0,5	1	0,5	2	1,0
Ministry of Agriculture, Forestry and Water Economy	managerial posts	160	146	91,3	11	6,9	1	0,6	0	0,0	1	0,6	1	0,6	0	0,0	0	0,0
	non-managerial posts	815	646	79,3	126	15,5	10	1,2	2	0,2	20	2,5	3	0,4	4	0,5	4	0,5
	employees at the body	975	792	81,2	137	14,1	11	1,1	2	0,2	21	2,2	4	0,4	4	0,4	4	0,4
Ministry of Informatics Society and Public Administration	managerial posts	28	25	89,3	2	7,1		0,0		0,0		0,0	1	3,6		0,0		0,0
	non-managerial posts	88	72	81,8	9	10,2	1	1,1	1	1,1	2	2,3	1	1,1	1	1,1	1	1,1
	employees at the body	116	97	83,6	11	9,5	1	0,9	1	0,9	2	1,7	2	1,7	1	0,9	1	0,9
Ministry of Culture	managerial posts	43	36	83,7	5	11,6	1	2,3	0	0,0	1	2,3	0	0,0	0	0,0	0	0,0
	non-managerial posts	105	39	37,1	55	52,4	2	1,9	2	1,9	5	4,8	1	1,0	1	1,0	0	0,0
	employees at the body	148	75	50,7	60	40,5	3	2,0	2	1,4	6	4,1	1	0,7	1	0,7	0	0,0
Ministry of Local Self Government	managerial posts	18	13	72,2	4	22,2	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	1	5,6
	non-managerial posts	25	9	36,0	16	64,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
	employees at the body	43	22	51,2	20	46,5	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	1	2,3
Ministry of Foreign Affairs	managerial posts	117	100	85,5	14	12,0	1	0,9		0,0	1	0,9		0,0		0,0	1	0,9
	non-managerial posts	393	274	69,7	102	26,0	4	1,0	2	0,5	3	0,8	2	0,5	4	1,0	2	0,5
	employees at the body	510	374	73,3	116	22,7	5	1,0	2	0,4	4	0,8	2	0,4	4	0,8	3	0,6
Ministry of Education and Science	managerial posts	28	20	71,4	6	21,4	1	3,6	1	3,6		0,0		0,0		0,0		0,0
	non-managerial posts	250	154	61,6	79	31,6	5	2,0	1	0,4	7	2,8	1	0,4		0,0	3	1,2
	employees at the body	278	174	62,6	85	30,6	6	2,2	2	0,7	7	2,5	1	0,4	0	0,0	3	1,1
Ministry of Defense	managerial posts	80	72	90,0	6	7,5		0,0	0	0,0	1	1,3	1	1,3	0	0,0	0	0,0
	non-managerial posts	795	678	85,3	83	10,4	8	1,0	1	0,1	10	1,3	6	0,8	4	0,5	5	0,6
	employees at the body	875	750	85,7	89	10,2	8	0,9	1	0,1	11	1,3	7	0,8	4	0,5	5	0,6
Ministry of Justice	managerial posts	47	43	91,5	2	4,3		0,0		0,0	1	2,1		0,0	1	2,1		0,0
	non-managerial posts	203	122	60,1	63	31,0	6	3,0	4	2,0	4	2,0	2	1,0	1	0,5	1	0,5
	employees at the body	250	165	66,0	65	26,0	6	2,4	4	1,6	5	2,0	2	0,8	2	0,8	1	0,4
Ministry of Transport and Communications	managerial posts	62	54	87,1	6	9,7	1	1,6	0	0,0	1	1,6	0	0,0	0	0,0	0	0,0
	non-managerial posts	246	197	80,1	41	16,7	4	1,6	0	0,0	3	1,2	1	0,4	0	0,0	0	0,0
	employees at the body	308	251	81,5	47	15,3	5	1,6	0	0,0	4	1,3	1	0,3	0	0,0	0	0,0
Ministry of Labor and Social Policy	managerial posts	50	38	76,0	6	12,0	1	2,0	2	4,0	2	4,0	1	2,0	0	0,0	0	0,0
	non-managerial posts	344	238	69,2	82	23,8	1	0,3	5	1,5	6	1,7	8	2,3	3	0,9	1	0,3
	employees at the body	394	276	70,1	88	22,3	2	0,5	7	1,8	8	2,0	9	2,3	3	0,8	1	0,3
Ministry of Finances	managerial posts	0																
	non-managerial posts	0																
	employees at the body	0	0		0		0		0		0		0		0		0	
General Secretariat	managerial posts	53	47	88,7	4	7,5	1	1,9	0	0,0	1	1,9	0	0,0	0	0,0	0	0,0
	non-managerial posts	167	138	82,6	11	6,6	4	2,4	6	3,6	0	0,0	3	1,8	3	1,8	2	1,2
	employees at the body	220	185	84,1	15	6,8	5	2,3	6	2,7	1	0,5	3	1,4	3	1,4	2	0,9
General Services Department	managerial posts	13	11	84,6		0,0		0,0		0,0	1	7,7	1	7,7		0,0		0,0
	non-managerial posts	363	319	87,9	22	6,1	5	1,4	5	1,4	6	1,7	2	0,6	3	0,8	1	0,3
	employees at the body	376	330	87,8	22	5,9	5	1,3	5	1,3	7	1,9	3	0,8	3	0,8	1	0,3

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		Total	ADEQUATE AND EQUITABLE REPRESENTATION															
			Macedonians		Albanians		Turks		Roma		Serbs		Vlachs		Bosniaks		Other	
			Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Ministry of Labor and Social Policy	managerial positions	50	37	74,0	6	12,0	1	2,0	3	6,0	1	2,0	2	4,0		0,0		0,0
	non-managerial positions	390	241	61,8	116	29,7	5	1,3	5	1,3	10	2,6	9	2,3	3	0,8	1	0,3
	employees at the body	440	278	63,2	122	27,7	6	1,4	8	1,8	11	2,5	11	2,5	3	0,7	1	0,2
Ministry of Finances	managerial positions	103	89	86,4	10	9,7	1	1,0		0,0	1	1,0	2	1,9		0,0		0,0
	non-managerial positions	519	447	86,1	50	9,6	3	0,6	3	0,6	7	1,3	5	1,0	3	0,6	1	0,2
	employees at the body	622	536	86,2	60	9,6	4	0,6	3	0,5	8	1,3	7	1,1	3	0,5	1	
General Secretariat	managerial positions	64	54	84,4	6	9,4	1	1,6	1	1,6	1	1,6		0,0	1	1,6		0,0
	non-managerial positions	344	180	52,3	7	2,0	61	17,7	55	16,0	13	3,8	15	4,4	11	3,2	2	0,6
	employees at the body	408	234	57,4	13	3,2	62	15,2	56	13,7	14	3,4	15	3,7	12	2,9	2	0,5
General Services Department	managerial positions	12	11	91,7		0,0		0,0		0,0	1	8,3		0,0		0,0		0,0
	non-managerial positions	369	329	89,2	22	6,0	5	1,4	5	1,4	2	0,5	2	0,5	3	0,8	1	0,3
	employees at the body	381	340	89,2	22	5,8	5	1,3	5	1,3	3	0,8	2	0,5	3	0,8	1	0,3
Legislation Secretariat	managerial positions	11	9	81,8		0,0		0,0		0,0		0,0	1	9,1		0,0	1	9,1
	non-managerial positions	14	11	78,6	2	14,3	1	7,1		0,0		0,0		0,0		0,0		0,0
	employees at the body	25	20	80,0	2	8,0	1	4,0	0	0,0	0	0,0	1	4,0	0	0,0	1	4,0
Secretariat for European issues	managerial positions	20	16	80,0	2	10,0	1	5,0		0,0		0,0	1	5,0		0,0		0,0
	non-managerial positions	84	57	67,9	17	20,2	2	2,4	2	2,4	2	2,4	3	3,6	1	1,2		0,0
	employees at the body	104	73	70,2	19	18,3	3	2,9	2	1,9	2	1,9	4	3,8	1	1,0	0	0,0
Secretariat for implemen. of the Framework Agree.	managerial positions	44		0,0	42	95,5	1	2,3		0,0		0,0		0,0	1	2,3		0,0
	non-managerial positions	1516	31	2,0	1286	84,8	69	4,6	82	5,4	2	0,1	3	0,2	40	2,6	3	0,2
	employees at the body	1560	31	2,0	1328	85,1	70	4,5	82	5,3	2	0,1	3	0,2	41	2,6	3	0,2
Higher Public Prosecutions	managerial positions	29	22	75,9	5	17,2	1	3,4	0	0,0	0	0,0	1	3,4	0	0,0	0	0,0
	non-managerial positions	34	28	82,4	5	14,7	1	2,9	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
	employees at the body	63	50	79,4	10	15,9	1	1,6	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
Basic Public Prosecutions	managerial positions	176	143	81,3	27	15,3	2	1,1	0	0,0	1	0,6	1	0,6	1	0,6	1	0,6
	non-managerial positions	135	111	82,2	15	11,1	2	1,5	1	0,7	1	0,7	4	3,0	0	0,0	1	0,7
	employees at the body	311	254	78,6	42	13,5	4	1,3	1	0,3	2	0,6	5	1,6	1	0,3	2	0,6
Appellate Courts	managerial positions	111	85	76,6	20	18,0	1	0,9	0	0,0	0	0,0	3	2,7	0	0,0	2	1,8
	non-managerial positions	238	201	84,5	19	8,0	3	1,3	1	0,4	1	0,4	9	3,8	1	0,4	3	1,3
	employees at the body	349	286	81,9	39	11,2	4	1,1	1	0,3	1	0,3	12	3,4	1	0,3	4	1,1
Basic Courts	managerial positions	516	433	83,9	56	10,9	2	0,4	0	0,0	9	1,7	7	1,4	5	1,0	4	0,8
	non-managerial positions	1871	1567	83,8	194	10,4	35	1,9	22	1,2	16	0,9	25	1,3	6	0,3	6	0,3
	employees at the body	2387	2000	83,8	250	10,5	37	1,6	22	0,9	25	1,7	32	1,3	11	0,5	10	0,4
Funds	managerial positions	110	91	82,7	17	15,5	1	0,9	0	0,0	0	0,0	1	0,9	0	0,0	0	0,0
	non-managerial positions	1395	1164	83,4	187	13,4	3	0,2	3	0,2	20	1,4	12	0,9	2	0,0	4	0,3
	employees at the body	1505	1255	83,4	204	13,6	4	0,3	3	0,2	20	1,3	13	0,9	2	0,1	4	0,3
Centers for Social Work	managerial positions	89	68	76,0	17	19,1	1	1,1	1	1,1	0	0,0	0	0,0	1	1,1	1	1,1
	non-managerial positions	891	691	77,6	136	15,3	12	1,3	16	1,8	12	1,3	12	1,3	3	0,3	9	1,0
	employees at the body	980	759	77,4	153	15,6	13	1,3	17	1,7	12	1,2	12	1,2	4	0,4	10	1,0
Local Self Government Units	managerial positions	740	556	75,1	147	19,9	13	1,8	4	0,5	5	0,7	4	0,5	2	0,3	9	1,2
	non-managerial positions	4286	3257	76,0	773	18,0	87	2,0	35	0,8	63	1,5	30	0,7	9	0,2	32	0,8
	employees at the body	5026	3813	75,9	920	18,3	100	2,0	39	0,8	68	1,4	34	0,7	11	0,2	41	0,8
Penitentiary – correctional and Educational – correctional institutions	managerial positions	41	32	78,0	8	19,5	24	58,5	0	0,0	1	2,4	0	0,0	11	26,8	18	43,9
	non-managerial positions	731	622	85,1	90	12,3	281	38,4	3	0,4	5	0,7	11	1,5	76	10,4	61	8,3
	employees at the body	772	654	84,7	98	12,7	305	39,5	3	0,4	6	0,8	11	1,4	87	11,3	79	10,2
Independent state bodies	managerial positions	1020	839	82,3	130	12,6	9	0,9	3	0,3	16	1,6	11	1,1	5	0,5	8	0,8
	non-managerial positions	8861	7025	79,3	1394	15,7	103	1,2	58	0,7	127	1,4	69	0,8	30	0,3	55	0,6
	employees at the body	9881	7864	79,6	1524	15,4	112	1,1	61	0,6	143	1,4	80	0,8	35	0,4	63	0,6
Public enterprises	managerial positions	1118	941	84,2	125	11,2	9	0,8	3	0,3	22	2,0	8	0,7	5	0,4	5	0,4
	non-managerial positions	15343	11910	77,6	1767	11,5	320	2,1	686	4,5	295	1,9	91	0,6	81	0,5	193	1,3
	employees at the body	16461	12851	78,1	1892	11,5	329	2,0	689	4,2	317	1,9	99	0,6	86	0,5	198	1,2
Public health	managerial positions	2345	1969	84,0	228	9,7	27	1,2	2	0,1	59	2,5	26	1,1	11	0,5	23	1,0
	non-managerial positions	12642	10347	81,8	1450	11,5	151	1,2	137	1,1	243	1,9	91	0,7	96	0,8	127	1,0
	employees at the body	14987	12316	82,2	1678	11,5	178	1,2	139	0,9	302	2,0	117	0,8	107	0,7	150	1,0

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		Total	ADEQUATE AND EQUITABLE REPRESENTATION															
			Macedonians		Albanians		Turks		Roma		Serbs		Vlachs		Bosniaks		Other	
			Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Elementary education	managerial positions	539	239	44,3	233	43,2	34	6,3	0	0,0	16	3,0	7	1,3	4	0,7	6	1,1
	non-managerial positions	17441	11327	64,9	5022	28,8	502	2,9	78	0,4	197	1,1	85	0,5	73	0,4	157	0,9
	employees at the body	17980	11560	64,3	5255	29,2	536	3,0	78	0,4	213	1,2	92	0,5	77	0,4	163	0,9
High – school education	managerial positions	184	127	69,0	48	26,1	5	2,7	0	0,0	3	1,6	1	0,5	0	0,0	0	0,0
	non-managerial positions	7893	5849	74,1	1684	21,3	117	1,5	26	0,3	110	1,4	53	0,7	14	0,2	40	0,5
	employees at the body	8077	5976	74,0	1732	21,4	122	1,5	26	0,3	113	1,4	54	0,7	14	0,2	40	0,5
University education	managerial positions	309	254	82,2	43	13,9	1	0,3	0	0	6	1,9	2	0,6	1	0,3	2	0,6
	non-managerial positions	1797	1590	88,5	121	6,7	7	0,4	5	0,3	30	1,7	18	1,0	2	0,1	24	1,3
	employees at the body	2106	1844	87,6	164	7,8	8	0,4	5	0,2	36	1,7	20	0,9	3	0,1	26	1,2
Institutions with various activities	managerial positions	260	220	84,6	27	10,4	1	0,4	0	0,0	6	2,3	3	1,2	0	0,0	3	1,2
	non-managerial positions	5761	4990	86,6	418	7,5	75	1,3	40	0,7	115	2,0	53	0,9	21	0,4	49	0,9
	employees at the body	6021	5210	86,5	445	7,6	76	1,3	40	0,7	121	2,0	57	0,9	21	0,4	52	0,9
TOTAL	managerial positions	9901	7835	79,1	1464	14,8	152	1,5	20	0,2	181	1,8	93	0,9	54	0,5	102	1,0
	non-managerial positions	97950	73260	74,8	17687	18,1	2012	2,1	1363	1,4	1528	1,6	648	0,7	531	0,5	921	0,9
	employees at the body	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

Data for comparison	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

Note: The Secretariat for Implementation of the Framework Agreement has delivered general data which point out employees transferred to other bodies and institutions and yet they are still on the Secretariat's pay list..

The total amount of data related to the year before, demonstrate a certain decrease of the percentage of employees that are members of the Macedonian community (75, 2%), and a slight increase of employees that are members of the Albanian (17, 8%) and Turkish community (2, 0%). The representation of other communities remains at the same level as the year before.

Споредбени податоци	Total		ADEQUATE AND EQUITABLE REPRESENTATION															
			Macedonians		Albanians		Turks		Roma		Serbs		Vlachs		Bosniaks		Other	
	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
Managerial positions	9901	8843	7835	7128	1464	1210	152	105	20	16	181	168	93	93	54	40	102	83
Non – managerial positions	97950	93260	73260	70751	17687	16388	2012	1586	1363	1288	1528	1497	648	585	531	347	921	818
Employed at the body	107851	102103	81095	77879	19151	17598	2164	1691	1383	1304	1709	1665	741	678	585	387	1023	901
The percent	100	100	75,2	76,3	17,8	17,2	2,0	1,7	1,3	1,3	1,6	1,6	0,7	0,7	0,5	0,4	0,9	0,9

In relation to managerial positions, an insignificant decrease has been noticed in regards to the number of employees who are members of the Macedonian community and a slight increase of the employees at managerial positions who are members of the Albanian and Turkish community.

Spreadsheet view for comparing data from 2007 to 2102

Years	Total employees	Macedonians		Albanians		Turks		Roma		Serbs		Vlachs		Bosniaks		Other	
		Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
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

The data from this spreadsheet point to the conclusion than the total amount of employees has increased on an annual basis which is a result of the increased number of institutions obligated to submit their data.



Findings

A slight increase in the application of the founding value of the constitutional order of the Republic of Macedonia – adequate and equitable representation of the citizens belonging to all communities in the bodies of state authority and other public institutions of all levels, i.e., it is noticed that the adequate and equitable representation principle of all communities in the bodies of state authority, the bodies of the local self-government units and the public institutions and departments has slightly increased but certain institutions have yet to implement this principle.

The level of representation at the managerial positions from the minority communities in the Republic of Macedonia is still not satisfactory, especially in certain independent state bodies and public health institutions.



Recommendations

Consistent implementation of the adequate and equitable representation principle for all communities in all bodies, organizations and departments, especially in the public enterprises, so that the founding value of the constitutional order of the Republic of Macedonia can be respected.

Undertaking additional measures for the proper application of the adequate and equitable representation principle in regards to the minority members.



POLICE PROCEDURES

The fundamental purpose of the police in a democratic society is to ensure the rule of the law, maintain public order and peace, protect and respect the citizens' rights and freedoms, prevent punitive acts and to fight against crime. The legal procedures of the police officials during the execution of police actions are of great importance and they are one of the most important indicators of the level of democracy and the respect of the citizens' rights and freedoms.

The authorizations of the police, according to the law, include use of force, which entails the use of firearms, as well as gathering information, calling individuals in for interrogation and deprivation of liberty. All of these authorizations impose limitations on human rights and freedoms and can be implemented solely with the existence of a law. The basic criteria for every police procedure is fairness, symmetry and non-discrimination. Every action must be based on a law, and to be proportional with the goal to be reached and must not include any type of discrimination towards the citizens.

Having these legal possibilities in mind, as well as the professional skills and physical readiness of police officials, then the control and constant monitoring of this concentrated power is unavoidable, both from the outside as well as on the inside so that the police can successfully fulfill

its legal function, but also respect, do no harm and protect the basic human rights and freedoms.

This report year, the Ombudsman has monitored the situation of respect given to human rights and freedoms on behalf of the police and has taken precise measures on any violations found. Although during the last report year the number of complaints has generally increased in comparison to the year before, the majority of those complaints refer to the passive attitude of police officials, as well as the disrespect of the police ethics code. Furthermore a decrease has been noticed in the number of complaints referring to the abuse of police authority and the excessive use of force.



The majority of complaints referred to the lack of necessary police activity which is required by the law, i.e., not acting in order to protect the citizens' property, withholding of information related to actions taken upon submitted complaints and claims, as well as unethical behavior during traffic control. In addition, errors were found in the police documentation (certificated for temporarily confiscated objects) and the causes for this type of police actions could not be identified.

Thus, it can be stated that the legal framework which governs police procedures is partly satisfying but it is insufficiently implemented in practice.

The decrease of complaints related to excessive use of force is mostly due to the higher level of education of police officers, as well as the efforts made by the Ombudsman during the previous years in trying to emphasize the need of professional behavior among police officials, which entails expertise, responsibility, sense of righteousness, psychological stability and proper judgment when it comes to performing police duty.

Just as previous years, so too in 2012, the improved implementation of border control has led to an increase of the number of citizens' complaints the Ombudsman has received in reference to the violation of their right to cross the state border. Having the constitutionally guaranteed right of the citizens of the Republic of Macedonia to move freely in mind, the Ombudsman has made an inquiry and found that the complainants have tried to cross the border without fulfilling the conditions stipulated by the Law on Border Control, i.e., did not possess the necessary documents to justify the purpose and reason for travel.

An evident progress has been made in the professional approach and the respect of the citizens' legal rights on behalf of the special police force members during the implementation of police actions for discovery and apprehension of suspects of criminal acts, but cases still exist when these actions lead to violation of human rights and freedoms due to excessive use of force during the execution of police authority. In such cases, the Ombudsman has pointed out the need for professional behavior, especially when making the information about the criminal acts and the perpetrators public and the need to respect the presumption of innocence principle.

The Ombudsman has established unobstructed communication with the police stations and the Sector for Internal control and Professional Standards at the Ministry of Interior. However there is still a need to enhance the level of unbiased and professional approach when it comes to police procedures and activities and to place greater attention to finding the evidence which point to the abuse of police authority.

Findings

Increase in the number of complaints from citizens in relation to the lack of police activities in accordance with the law, and the legislation which regulates police procedures is inadequately implemented in practice.

Errors found in police records which make the process of determining the reasons for taken police actions quite difficult.

Reduced number of complaints referring to abuse of police authority, especially use of excessive force, but there are still cases of overstepped authority.

Cases of police procedures in violation of the presumption of innocence principle still exist.

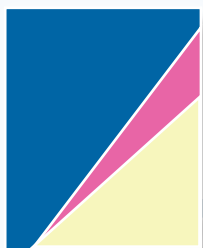
Recommendations

Consistent application of police authority stipulated by laws and bylaws in order to procure the rule of law, maintain public order and peace and respect and protect the citizens' rights and freedoms.

Continuation of the process of ensuring adequate conditions for effective police performance, as well as continuous education of police officials in order to advance the relationship between policemen and citizens.

To work in continuity on the improvement of police records and the contents of police documentation.

To respect the presumption of innocence principle when making information on executed police actions public.



CIVIL AND OTHER INTERIOR AFFAIRS

The submitted complaints at the Ombudsman's office this year as well show a delay of procedures to fulfill the rights related to issuing citizenship status, place of residence, public documentation (travel documents, identity cards, birth certificates) and other administrative procedures upon previously submitted requests at the Ministry of Interior or other bodies with public mandate.

As a result of its continuous activities and the unobstructed cooperation with the Department of Civil Affairs at the Ministry of Interior, especially the Sector for Administrative – Supervisory Affairs, the Ombudsman has found that the procedures for gaining Macedonian citizenship has an increased number of positive outcomes. And yet, in certain cases, the Ombudsman has found delays of these procedures due to the inadequate coordination between the bodies of the Ministry (body for citizenship, body for security, foreign body, district police services) in the naturalization procedures of supplicants. In some cases the Ombudsman has submitted written opinions and indications, and in others the Ombudsman's offices used all their available measures to contact the Sector for Administrative – Supervisory Affairs and its Department of Citizenship, no matter the type and level of procedure that was in progress. The Ombudsman happily states that his indications in relation to the service and help provided to the ignorant party has been accepted by the mentioned bodies since the Law on Citizenship of the Republic of Macedonia does

not foresee time frames for decisions upon the submitted request and that the procedure can last for a longer period of time until all evidence foreseen by this law have been gathered.

In order to expedite the procedures for gaining the requested citizenship, the Ombudsman welcomes the changes made to this law by eliminating the right to appeal and the possibility of the disgruntled party to initiate an administrative claim, but feels that the changes should lead towards facilitating circumstances for certain categories of citizens who fit the principles of the European Convention for Citizenship due to the fulfillment of the obligation of the Republic of Macedonia from said convention.

In respect to issuing the so-called biometric public documents (passports, identity cards, driving licenses) from the Ministry of Interior, the opinion of the Ombudsman was confirmed from the previous reports that the delays of the procedures (failure to issue the proper documents in the legal timeframe) the citizens are limited in their daily fulfillment of their freedoms and rights guaranteed by the Constitution and the laws.

Another problem was noticed with the inability to issue travel documents to Macedonian citizens abroad and who have resided for more than six months at the diplomatic – consular offices of the Republic of Macedonia and for which the Government has announced their solution during the year 2013.

During this report year, complaints were received from citizens requesting the Ombudsman's help to fulfill their right to register their residence/place of stay because due to the poor material condition they were unable to fulfill these rights in due time.

In reference to the right to leave the territory of the Republic of Macedonia, in regards to the citizens and their legal stay in member states of the European Union, the Ombudsman welcomes the measures of executive authority for the sustainable liberalization of this right through the implementation of no visa travel regime and against those citizens who abuse this right can be taken measures in accordance with article 2 from protocol number 4 of the European convention for protection of human rights and basic freedoms.

An improvement has been seen in the work of the body for issuing birth certificates including faster servicing of citizens with the necessary birth certificates and implementing legal solutions for new birth regions and birth registries which will satisfy the needs of citizens from different ethnic communities.

Unlike the abovementioned bodies, the Ombudsman has again come across a wall in the cooperation with the body competent for foreigners, i.e., the Sector for Border Affairs and Migrations at the Ministry of Interior. This body must have the legal regulations in mind when it comes to the cooperation with the Ombudsman as it is foreseen by the Ombudsman's Law and the Law on Interior Affairs. The Ombudsman states that the officials at the body for foreigners apply the legislation in a restrictive manner by using effective legal remedies for the interested foreign citizens so there is a need for them to be additional education into legal matters of interest.



Findings

The citizens are still faced with difficulties when it comes to fulfilling their status rights (issuing public documents, travel documents, identity cards, birth certificates, registration of residence and address of residence, citizenship status). The duration of administrative procedures is worrisome.

Part of the provisions of the Law to register a permanent residence or place of stay of the citizens are not functional which makes it impossible for citizens to register their permanent residence – place of stay, and this presents a serious problem for the citizens as well as the society.

Especially worrying is the lack of activity by the Sector of Border Affairs and Migrations upon the Ombudsman's interventions in order to protect the rights of the citizens and other individuals (including foreigners) who have contacted the Ombudsman.



Recommendations

To expedite the activities of upgrading the infrastructure and personnel capacity of the bodies who service citizens on a daily basis in regards to their status rights.

To make changes in the law on registration of permanent residence and place of stay, so the citizen can register his actual place of residence and stay.

The Sector for border affairs and migrations has impeded the Ombudsman's work for years and needs to respect the legislation.



JUDICIARY

Fair trials are the basis of every legal country which guarantees equal access to justice for each citizen. This strengthens the trust citizens have in the judiciary system which is obligated to ensure procedures which fully respect the basic human rights and freedoms.

The Ombudsman can undertake activities and measures for protection of the right to trial within a reasonable time, i.e. to protect citizens from unjustified delays of court procedures and in doing so to ensure the respect of the principles of self-reliance and independence of the court authority.

This report year, the majority of citizens through the complaints submitted to the Ombudsman expressed their dissatisfaction with court decisions even though the Ombudsman has no competence over the matter. The citizens most commonly complained on the quality of the court decision, and not on the delay of court procedures, and were given advice on the mechanisms

they can use to protect their rights in regards to court decisions, i.e. they were given instruction how to seek protection and which competent bodies can help them.

Although a significant improvement of the citizen's right to quicker and easier access to justice was expected as a result of the introduction of reforms in the judiciary system and the implementation of changes in procedural laws, the continuous education of the judges and other implemented measures, several complaints were received this report year in relation to trials which did not follow the trial within a reasonable time principle. In the complaints referring to the duration of court procedures, i.e. the effectiveness of court procedures, the Ombudsman has acted in accordance with the constitutional and legal competences and has undertaken all the appropriate measures and action to protect the principle of trial within a reasonable time.

In accordance with his competence the Ombudsman has acted upon complaints for trial within a reasonable time, where the majority of complaints came from citizens complaining on the duration of court procedures of first instance, especially the civil courts as well as the Constitutional Court of the Republic of Macedonia. A smaller number of complaints referred to the courts of first instance which act on criminal cases and appellate courts. Although the Ombudsman is aware that the parties themselves have a partial contribution to the fact the procedures last more than necessary, he still feels that the court should demonstrate greater involvement and interest. This is especially true in the matter of collaboration between courts and the state bodies or institutions in the process of gathering evidence. Cases have been registered with evident lack of cooperation between the Constitutional Court and the state bodies in order to deliver certain acts necessary to decide upon a claim against a disputed constitutional act. Regular courts of first instance face similar problems of late delivery of the requested evidence or total lack thereof from other state bodies. Same as all those years before the trial within a reasonable time principle has been limited due to the insufficient number of human resources as well as the inadequate work conditions of the courts, the Constitutional Court in particular.

The statistical data on the subject matter of the Ombudsman indicate that the number of complaints related to court procedures of second instance courts is two times smaller in relation to the procedures of first instance courts and the complaints related to the work of public prosecutors are insignificant and mostly relate to lack of efficiency.

During the previous year the Ombudsman has received complaints that related to violations of the rights to an attorney, and in his opinion the disciplinary bodies of the Advocacy Chamber of the Republic of Macedonia usually favor the members of its professional field and protect their membership. This conclusion arises from the fact that the disciplinary bodies have reacted slowly upon the complaints and the requests made by the Ombudsman have frequently been left unanswered.

In 2012 there has been an increase of the number of complaints related to irregularities in the work of executors. The increase of this type of complaints is a consequence of the transfer of already begun executive cases from the courts in the competence of the executors. Here, the majority of complaints came from citizens with a status of debtors in the executive procedure. The citizens complained that the forced execution was done without respect and adequate application of the regulations of the Law on Execution, i.e., inadequate delivery of warrants for forced execution, total blockage of their transactions which jeopardized their existential minimum or that the forced payment was done through the personal income on the basis of social benefits or legal support. A small part of the complaints referred to delays of the procedures for forced execution, i.e. that the executors do not take the necessary measures and activities for efficient payment of the monetary requests stipulated in the executive order.

Acting upon this type of complaints, the Ombudsman found that the ignorance of the citizens is the most common cause for the difficulty faced when fulfilling the rights during the procedures for forced execution. Namely, the parties refused to contact the executors, did not use their right to object to irregularities in the execution process to the president of the court and requested that the Ombudsman undertakes measures to remove the irregularities from the procedure for forced execution. On the other hand, the procedures for forced execution are fairly dynamic with short timeframes and this means that taking immediate actions is unavoidable.

The Ombudsman directly or through written correspondence with the executors has suc-

cessfully ensured consistent application and respect of the legislation which governs forced execution processes. Namely, in some cases he succeeded in protecting the existential minimum of the citizens as well as to ensure that force payment will not be executed through their personal income on the basis of social benefits, as well as to ensure the legislation will be respected when it comes to objects and assets which are exempt from the execution process or have limitation in the execution.

Findings

The duration of civil procedures and claims with the Constitutional court continues to obstruct the access to justice.

Lack of sufficient communication between administrative bodies and the court authority affects the unjustified duration of court proceedings.

A large number of complaints come from disgruntled citizens on court decisions and request taking proper measures but the Ombudsman has no authority over these matters.

The number of human resources and conditions in the courts is not satisfactory, especially the lack of material technical conditions for the effective operations of the Constitutional Court.

Due to the slow procedures of the disciplinary bodies of the Advocacy Chamber the procedure for protecting the citizens' rights is made difficult when the rights have been violated by attorneys.

Increased number of complaints related to irregularities in the procedures of executors, and it has been stated that there is lack of awareness among citizens on the regulations from this domain.

Recommendations

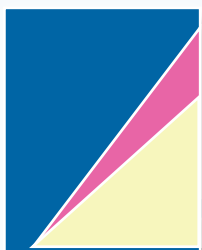
Consistent respect of the trial within a reasonable time principle and consistent application of the material and process rights with the goal of enabling an equal access to justice by all citizens.

To strengthen the effective communication between state bodies and the court authorities.

To create conditions for effective operation in the courts especially the Constitutional Court and building their personnel capacities.

The bodies from the Advocacy Chamber should act upon the submitted complaints from the citizens related to violations made by attorneys in a timely, effective and unbiased manner.

To respect the legislation governing the actions of executors related to objects and assets exempt from the execution process or have a limitation placed on them, but also to enhance the citizens' awareness on their rights and obligations in accordance with the Law on Execution.



PENITENTIARY – CORRECTIONAL AND EDUCATIONAL – CORRECTIONAL INSTITUTIONS

In order to protect the rights of individuals accommodated in penitentiary – correctional and educational – correctional institutions, in 2012 the Ombudsman acted upon complaints submitted by convicted and detained persons, as well as upon cases formed as a result of his own initiative.

The Ombudsman, after the completed inquiry to protect the rights of this category of individuals, states that additional improvement is needed in the existing legal framework to ensure the total respect and incorporation of the European Prison Rules in our legal system, as well as consistent and full implementation of the Law on implementing sanctions and other bylaws in common practice.

In relation to received complaints from convicted and detained individuals it has been stated that during this year the number of submitted complaints has reduced in comparison to the year before, which does not necessarily indicate improvements in this field. On the contrary, the respect of guaranteed rights and freedoms of individuals deprived of liberty continues to be on an unsatisfactory level. After the analysis of the matter, the Ombudsman has stated that the overcrowdings of the institutions' capacities continues to be the greatest problem, and the convicted persons still face problems of health protection and frequent conflict situations among convicted are not uncommon. The Ombudsman has ascertained that due to the insufficient expertise in certain cases the officials have acted in an unprofessional manner and caused torture.

The Ombudsman has established that, although rarely, in the Republic of Macedonia violations are made on the prohibition of torture and other cruel and inhuman treatment of individuals deprived of liberty. The lack of involvement and insufficient expertise of the officials from the institutions, from safety aspect as well as from the process of re-socialization, has resulted in cases of torture and unprofessional treatment towards detainees in the Prison Bitola. The Ombudsman has ascertained that the officials employed in the prison have acted in an illegal and unprofessional manner by physically harassing and hitting the detainees and caused visible violations. The Ombudsman has determined that in this particular case it was acted against the international standards and domestic regulations and has filed a request to initiate procedures to establish penal responsibility which was accepted by the prosecution.

Acting upon the subject matter, the Ombudsman has established that due to the problem of overcrowding of capacities, a detainee was forced to sleep on the floor in the detention unit of the prison. The Ombudsman indicated that this type of behavior puts the individual in an unequal position in relation to other detainees and has requested equal application and treatment in accordance with the ratified international conventions and the relevant legal regulations which stipulate that the individuals should be accommodated in facilities with the spatial, health and hygienic conditions.

Although the number has reduced from the previous period, this report year has also witnessed numerous conflicts among convicted persons. The Ombudsman has established that these situations are the result of the insufficient involvement of security services in the institution and the restrain they demonstrate in certain moments which leads to the endangering the personal safety of the convicted persons as well as the safety of the entire institution. Thus, from

the aspect of personal safety, there were frequent cases when convicted persons have requested transfer to other institution in the Republic of Macedonia. The Ombudsman has directed these individuals to the Administration for Implementation of Sanctions at the Ministry of Justice as the competent body for decision – making on transfer of convicted individuals from one institution to another. In some cases, considering the indisputably endangered personal safety of certain individuals, the Ombudsman has requested safety measures to be taken directly by the director of the institution, and requested that the Administration for Implementation of Sanctions immediately takes measures for reviewing the requests of the convicted persons, to ascertain their validity and issue timely decision upon their requests.

Complaints were submitted throughout this report year referring to the classification and dislocation of convicted persons, the status condition on the basis of which the right to use certain comforts is determined. In these cases, the Ombudsman noted that the dissatisfaction the convicted persons feel is the direct result of selective classification, actually the existence of equal conditions for some of the convicted individuals, and yet they were classified in a different manner. Thus, the Ombudsman handed over his remarks to the Ministry of Justice in relation to the Rulebook for dislocation, classification and arrangement of convicted persons in the penitentiary – correctional institutions, and emphasized certain inconsistencies and irregularities in the risk calculation process and the lack of transition regime in cases when the convicted persons have reached the right to a certain special treatment.

The Ombudsman has also submitted his remarks on the new House rules for convicted persons serving prison sentence in a penitentiary – correctional institution, stating that the time necessary to gain comforts should include the time spent in prison, having in mind the fact the process of re-socialization is the basic function of the penitentiary – correctional institutions. These remarks were given upon the finding that irregularities and inconsistencies can lead to unequal positions among convicted individuals which results in lack of trust in the institution and its employees especially in the employees of the re-socialization service.



A large number of complaints received during the previous year referred to the right of convicted individuals to health protection, as the complaints indicated poor conditions in the prison ambulance, lack of medication and inadequate or insufficient health care provided by the medical services. In these cases, the Ombudsman has indicated to the institutions their obligation to implement the legal regulations and international acts, especially those relating to the right to health protection of detained and convicted individuals. The Ombudsman has intervened in cases when convicted could not fulfill their right to health protection as a result of avoidance of the prison administration to act upon their request and perform surgical interventions on the prisoner's own expense which was adequately supported with a doctor's recommendation– specialist's medical opinion. Thus, the Ombudsman has requested consistent application of legal regulations in the aspect of health protection of convicted persons, pointing out the obligation to act upon their requests.

This report period, the Ombudsman has acted upon several complaints from people deprived of liberty and seeking legal counsel for using legal remedies with the competent courts, and several procedures were initiated for the death of a convicted so the competent bodies have performed insight on situ and it was also requested that an autopsy is performed on the deceased convicted individual.

In the context of establishing the situation of acting upon complaints it has been seen that the prison system is faced with insufficient financial assets which normally affects the material

conditions in the penitentiary – correctional facilities, but also the treatment of convicted individuals and the level of fulfillment of their rights. The low level of interest and actions taken to rehabilitate the convicted individuals and the lack of educational activities for those employed at these institutions has contributed to the existing less than satisfactory conditions in the penitentiary system. Although several years back an idea was presented to establish a training centre within the prison system, this idea unfortunately was yet another unrealized project.

Findings

The Ombudsman has again this year ascertained cases of torture and unprofessional treatment towards individuals deprived of liberty.

The overcrowding problem at the penitentiary – correctional institutions, especially the prison "Idrizovo" remains to be a problem of great concern.

Despite the taken measures to improve the health protection systems they are still well under satisfactory levels.

The Ombudsman has ascertained cases of selective classification of convicted individuals and pointed out certain inconsistencies and irregularities in the Rulebook for arrangement, classification and dislocation of convicted persons.

The unprofessional behavior and insufficient involvement of security services has led to conflict situations among convicted persons which threatened the personal safety of the convicted individuals and the safety of the institution itself.

The rehabilitation process remains to fulfill its true purpose and the insufficient capacity of services and lack of financial assets continue to be serious problems which these institutions face.

Recommendations

Detailed examination of all alleged cases of torture, inhuman and other unprofessional treatment of individuals deprived of liberty and implementation of adequate procedures and undertaking of measures.

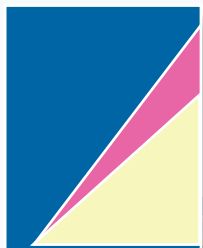
Undertaking of concrete measures to solve the overcrowding problem and additional improvement of the accommodation condition with full respect of the human dignity of individuals located in these institutions.

Improvement of health services in the penitentiary – correctional and educational – correctional institutions by establishing a proper health protection system.

Revision of bylaws which govern the classification and dislocation of convicted individuals.

Additional improvement and strengthening the monitoring function of the Security service to raise the level of safety and prevent physical conflict among convicted individuals.

Upgrading of personnel capacity and promotion of the operations of the Sectors for re-socialization through continuous education of the employees as a condition to fulfill one of the basic purposes of punishment, i.e., the re-socialization of convicted individuals. Competent bodies to take appropriate measures in procuring the necessary financial assets needed for the normal operation of these institutions.



PROPERTY – LEGAL RELATIONS

The majority of received complaints from the property – legal relations domain continue to be related to the fulfillment of citizens' rights in the process of denationalization.

Therefore, the problems the citizens are faced with remain the same, unjustified delay of procedures and inefficient handling of procedures, frequently without any objective circumstances for such type of behavior, which leaves the impression that the cases are handled in a selective, unequal and subjective manner.

Namely, this report year, complaints have been submitted by citizens requesting the Ombudsman's intervention in cases of denationalization, dating back to the year 2000 with their first instance procedure still in progress.

In that effect, the late handling of procedures is seen as late decision – making by the bodies upon the citizens' requests, as well as a violation of the regulations of the material law which foresees the opportunity of a certain case to be concluded with a meritorious decision.

Thus, there are almost no cases when the second instance court or the Constitutional Court has applied the law so that the case has been meritoriously solved, although this possibility does exist in cases when they act upon a submitted appeal, i.e., claim against a decision that has been overturned and returned for another trial.

The Ombudsman's interventions, that the bodies of denationalization, each within their own scope of competence, conclude the procedures in progress and to reach adequate decisions upon the subject requests, and allow citizens to fulfill their constitutionally and legally guaranteed rights, have not been fully supported.

Most frequently a substandard response is received upon the intervention, i.e., that the procedure is in progress or that the facts or circumstances important for issuing a just decision are yet to be established. Correspondingly, there are plenty of cases when the act of confirming the functionality of a certain land, securing the extract from the detailed urban plan, gathering data from the cadastre and other necessary evidence, does not last for days or weeks, but rather months and sometimes even years.

This type of situation is beyond the legal standards which stipulate the obligation of the bodies to enable the citizens and efficient and legal fulfillment of their constitutional rights and freedoms, each within their own competence.

Here, it must be noted that instead of an increased involvement so that the process can finally be concluded, the first instance commissions for denationalization insistently avoid their obligation to respect the indications and directions provided by the court bodies in their decisions issued upon constitutional proceedings, as well as the present court practice for cases related to the same factual and legal relation, i.e., from the same factual and legal state of things.

Should the procedure for denationalization continue to develop in this tempo, it will surely last for a long period of time, and this confirms the previous opinions of the Ombudsman that the time when the procedures are finally over cannot be precisely determined.

Furthermore, when it comes to the complaints against the Cadastre for Real Estate Agency and her organizational units, the citizens follow an increasing trend and address the Ombudsman

with their dissatisfaction from the content of certificates rejecting their applications to register certain rights in establishing and maintaining the cadastre for real estate or to correct a certain technical error. However they do not use the legal remedy of filing a claim with the Constitutional Court so that it can be ascertained whether all conditions for registering their right are fulfilled in accordance with the Law on Cadastre of Real Estate.

The only remaining possibility, in cases such as these, is that the Ombudsman issues a request to the Cadastre Agency to use internal control and monitor the legality of the procedure or to advise the citizens in question on the method through which they can request the removal of the registered rights from the cadastre of real estate and on the bodies of relevant competence.

On the other hand, it is undisputable that the Cadastre of Real Estate Agency continuously implements reforms in order to improve its efficiency of issuing data, and that it belongs to the group of institutions with a significantly improved operational and data quality as seen over the course of these past few years.

However, despite the increased efforts to ensure unobstructed and timely issuing of ownership right list, copies of cadastre plans and other related documents, the fact of the matter is that mess and commotion is created on a daily basis and these are not always adequately solved by the officials in charge. This condition certainly results in a justified revolt and discontent, especially since the citizens pay the administrative fee for these services and expect the cadastre to provide them accordingly.

The legal changes and commercial campaign to buyout yard space has resulted in a huge flow of requests, but considering the capacities and the operational method of the Property – Legal Issues Administration and its organizational units, there are no ways to handle them within the adequate and legally determined timeframe, and again the citizens request the Ombudsman's intervention.

The general state is that these procedures last for years, citizens have difficulty inquiring on the status of the procedure and are exposed to useless expenses in order to complete the necessary documentation and the State Administrative Inspectorate does not sanction the problems of late, uneconomical and inefficient fulfillment of the citizens' rights and interests and the same goes for the other participants in the administrative procedure while handling administrative issues.

A systemic problem exists here as well; one that must be adequately solved, and is related to the conditions and the amount of the fee to buyout land in the property of the Republic of Macedonia, land with illegally built construction, and the Law on Dealing with Illegally Built Constructions has issued a decision for establishing the legal status.

Namely, this refers to a condition which prevents this category of citizens to buyout the land with the price of 1 euro per m², the amount stipulated by the provisions of the Law on Privatization and Rent of Construction Land and the corresponding regulations, due to the existence of a legal void i.e., matters not yet governed by legal regulations and adequate bylaws.

In particular, although these citizens have a longstanding factual and immediate adverse possession, they are not registered in the cadastre log as bearers of the right to use the construction land on which they have built housing objects since they have received this right from the previous owners through a written agreement without it being properly verified with the competent bodies (courts) and no value added tax has been paid for the land. In addition, there is no doubt that the former owners (who have not been compensated by the state after the nationalization process) do not request for the land to be returned or paid since they have already sold it.

Therefore, in this case, the question of equity, equality and non – discrimination is quite legitimate, and if they have to buy the same land again from the state or rent it by paying the appropriate fee, but have already bought it at the market price from the previous owners, should they face unfavorable conditions – i.e., buy the land at the market price and not at 1 euro per m².



Findings

The denationalization process has still not ended in 2012 and with the citizens' complaints in mind, the question of when it would be finally over remains.

The commissions for denationalization, the Property – Legal Issue Administration and her organizational units obstruct the Ombudsman's work in certain cases. They cannot structurally respond to the tasks at hand, do not provide equal, unbiased and objective application of the regulations when handling administrative matters and are not service oriented towards the fulfillment of the citizens' rights and interests.

Despite the completed reforms, the citizens continue to be faced with long and tiresome queues in front of the windows of the Cadastre of Real Estate Agency and its organizational units, especially in Skopje.

The owners of illegally built construction on the land in property of the Republic of Macedonia cannot fulfill their right to rent the construction land since the conditions for rent have not been set and there are no bylaws to govern the rent fee.



Recommendations

To take measures of all aspects so that the process of denationalization can be concluded once and for all.

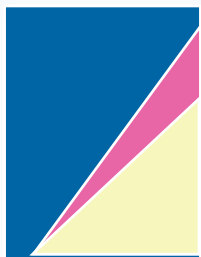
To take measures to raise the operational quality of the Property – Legal Issue Administration and its operational units so that they can structurally respond to the tasks at hand and solve the property – legal issues.

Normative declaration of the conditions for rent of land in the ownership of the Republic of Macedonia, with an illegally built construction, and to follow the Law on Dealing with Illegally Built Constructions that has issued a decision on establishing the legal status, the fee amount as well as the method and means of handling the purchase of the land in question.

The Cadastre of Real Estate Agency to undertake measures to overcome the frequent queues in the facilities of its organizational units, especially in Skopje.

The privatization process of construction land to be dealt in a manner which requires the least amount of effort and assets from the citizens.

To follow the principles of equality and non – discrimination and to solve the privatization problem of construction land for physical and legal entities who are not registered in the cadastre log as bearers of the right to use the land, although they actually have owned the land for quite some time through an agreement with the former owners which has not been properly certified.



URBAN PLANNING AND CONSTRUCTION

Urban planning and constructions are of crucial importance not only for the citizens, but for the society as a whole.

That is why the basic purpose of arranging and humanizing space is to secure standards and conditions for better living, work and functioning of all subjects in the society, as the basic prerequisite for raising a healthy family, urban life, clean property – legal relations and social – economic prosperity.

The legislation which directly governs the relations among subjects in spatial planning and construction is in direct correlation with other legal regulations on obligation and other property – legal relations, the relations in the communal and traffic infrastructure, environment etc., and this is the reason for its frequent changes and amendments.

Although the changes are aimed to improve the conditions, they still create difficulties in its practical implementation, not only for the citizens, but also for the employees at the bodies implementing the law which affects the efficient fulfillment of the citizens' rights. The changes in the Law on Dealing with Illegally Built Constructions should be specially emphasized in this context.

In order to fulfill the individual rights in the domain of urban planning and construction, citizens most often communicate with the local self – government bodies, although sometimes they need the services of bodies on central level, public enterprises, other bodies and organizations and certain public services. This is precisely why, the majority of complaints refer to the local self-government bodies on rights related to procedures of legalizing illegally built constructions, obtaining construction licenses, removal of illegally built constructions impinging their interests or annulling the validity of decisions to remove illegally built constructions or temporary constructions.

In comparison to previous years, this report period was characterized with significantly decreased number of complaints referring to the activities or lack thereof by bodies responsible for implementing the regulations in the domain of urban planning and construction which may be the result of the structural reforms in the legal regulations aimed to expedite the procedures, certain organizational reforms in the cadastre of real estate and of course the electronic networking among institutions as well as the possibilities created with the Law on Dealing with Illegally Built Constructions.

This law enables citizens to legalize the illegally built construction for a symbolic fee and has made a significant step towards regulating a number of problems of property – legal and communal aspect, even problems related to the public order and peace which led to a number of court proceedings. Furthermore, by adopting this law, the execution of a large number of already issued administrative acts to remove illegally built constructions was stopped, and this in turn is another reason why the number of complaints has reduced.

When it comes to the fulfillment of the citizens' individual rights in the urban planning and construction sphere, there is a general impression that the communication between the bodies of the local self-government units and the Ombudsman has noticeably improved.

This report year, the local self-government units, acting upon the citizens' requests, have

solved the legal status of a large number of illegally built constructions which led to a multifold positive effect on the conditions from this sphere.

A certain number of local self-government units are still faced with the problem of insufficient personnel capacity especially in regards to their inspection services so there are cases when a single inspector is in charge of monitoring the implementation of the law over the region of several municipalities.

The improvement in the communication between the bodies and the Ombudsman is clearly noticeable, although there is still room for improvement especially with the municipalities of Suto Orizari and Cair whose services had a delayed response to the Ombudsman's requests and interventions.

The Ombudsman considers that when it comes to urban planning it is not appropriate to place an emphasis on the commercial interest to the detriment of the public one.

When these conditions in the sphere of construction represent a long-term practice, the citizens who request the Ombudsman's protection express their belief that the problem is the misuse of the positions of power, the social or political status, corruption or other social shortcomings.

Although arranging and humanization of space are the basic principles of spatial planning and urbanization, we have witnessed situations when certain constructions hang above roads, some housing or commercial objects prevent air circulation, children have minimal playground area and the size of green surfaces is constantly being reduced.

Having this in mind, the Ombudsman pleads the boards of the local self-government units, in the name of public interest, to consider the principles of humanization, the regular and functional arrangement of space and the effects on the environment, in every phase of the adopting process of detailed urban plans.

Findings

Difficult implementation of the regulatory acts for removal of illegally built constructions and the reason for this according to the local self-government unit is the lack of sufficient financial assets.

When issuing detailed urban plans, the local self-government units place greater emphasis on personal financial interest instead of their obligation to secure the humanization of the space and to create the conditions for the normal citizens' functioning.

The possibility to legalize the illegally built constructions for a symbolic fee has reduced the number of citizens' complaints submitted to the Ombudsman.

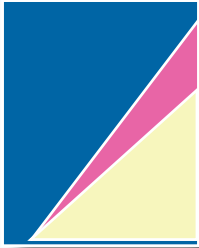
Recommendations

Competent bodies should implement the legal regulation adequately both in terms of deadlines and in terms of legality in the decision – making process.

The preventative activity of inspection units needs to be increased through more frequent field inspections in order to prevent illegal contrition activities in an early phase.

While preparing and adopting urban plans, the local self-government units should consider the real needs of the citizens, and to secure rational use of the space, as well as adequate living and working conditions for the citizens.

Implement projects aimed to raise the awareness and the responsibility of state officials and persons responsible in the competent bodies of local and central authority so that a higher professional, diligent and legal level can be achieved.



ENVIRONMENT

The right to clean environment is a fundamental citizen right and its full and consistent protection and promotion is a prerequisite for improved health and superior, longer life of citizens.

According to the statistical data the average life span of the citizens of the Republic of Macedonia is far below the average life span of the citizens from other European countries.

The pollution of the environmental media, especially the air and soil, is one of the main reasons for this among many others, and the responsibility for this pollution falls on a number of factors, including the low environmental awareness among citizens, the insistence of the owners on production capacity of larger profits, but also on the state because of its tolerant behavior towards the larger pollutants and the insufficient capacity and involvement of inspection bodies on both central and local levels.

As a result we are faced with a large number of landfills with construction, communal and other type of waste along the waterways throughout the country which have a negative impact on water quality as well as on the agricultural land located in their vicinity.



In respect to these negative conditions and the existence of illegal landfills, among others, the responsibility lays within the local self-government units whose communal ushers and environmental inspectors are insufficiently dedicated to the discovery and sanctioning of polluters.

On the other hand, the lack of ideas, plans and programs of the local self-government units to undertake sanction measures for these conditions is quite worrisome although these past few years the Ombudsman's recommendations were accepted wholeheartedly.

The impression is that the bodies of central authority, despite the numerous activities from both legislation and implementation of the legislation aspects, do not manifest a larger level of readiness to undertake more radical measures of sanctioning the larger polluters.

This type of inappropriate behavior of all social forces towards the environment is the reason behind the long-term condition and consequences of the illegal wasteland in Tetovo, the consequences still felt by citizens in Veles, the enormous contamination of the air in Skopje which surely promotes further degradation of the environmental media and the damaging consequences on the life and health of the human, animal and plant population.

It seems the condition in the environment remains in the margins when it comes to the obligations of all subjects and the persons responsible, and instead of being actively engaged to

solve these problems the issues are delayed for some other better times.

The fact that the environmental awareness is quite low is evidenced by the low number of complaints the Ombudsman has received this year, and insufficient and inconsistent activities of the competent inspection bodies when it comes to their competence is supported by the fact that they are unable to overcome the problem of stray animals in the urban environment nor to prevent the occurrence of wastelands with construction and other types of wastes in the vicinity of river bank or even inhabited regions for that matter.

In the complaints submitted to the Ombudsman, the majority of citizens complained on the lack of activity from the communal inspectors against citizens who have violated the provisions of the Law on Communal Activities, on the increased level of noise coming from the restaurants in the neighborhood or the harmful effect of the telecommunication antennae located on construction objects in their immediate vicinity.

Acting upon complaints, the Ombudsman has requested the involvement of all bodies with any type of legal obligations to undertake immediate actions and to sanction the illegal activities.

This year as well, citizens have requested protection from the harmful influence of non – ionizing radiation, emitted from the telecommunication equipment, on their health, and the Ombudsman has stated that the Republic of Macedonia is probably the only remaining country in the region that has yet to adopt a Law on protection against non – ionizing radiation.

The adoption of this law should be a main priorities since it would not only regulate the relations in this sphere but would also improve the citizens' perception of the real dangers of non – ionizing radiation on their health.



Findings

Low environmental awareness of the citizens and the personal and commercial interests are the main cause for the unfavorable condition of all environmental media.

Insufficient preventative activity of competent environment inspectors at the local self-government units has led to the occurrence of landfills with communal and construction waste in the immediate vicinity of inhabited places and along waterways.

Transfer of competence and responsibility from one body to the next as the reason for the difficulties of efficient fulfillment of the citizens' environmental rights.

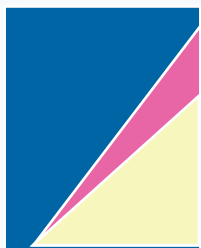


Recommendations

Taking immediate measures to construct regional landfills for removal of communal and other type of solid waste.

Improvement of the effective communication between institutions of bodies on local and central level in order to solve the cases of endangered rights related to the environment.

Organizing activities in coordination with the Ministry of Environment and Spatial Planning with local self-government units, the citizens, private sector and construction directive in order to promote and contribute to a healthy and clean environment.



LABOR RELATIONS

This report year, in the labor relations domain, the Ombudsman has received complaints from citizens seeking protection of their rights in the recruitment procedures, the procedures to determine the work status, help to fulfill the right to transformation of labor relations, transfer procedures, evaluations, payment of salaries, payment of the right to contribution, procedures on termination of employment; while a smaller number of complaints referred to citizens requesting interventions in the procedures of establishing service accrual of insurance, enforced disciplinary measures, termination of the labor relations and others.

The complaints referring to the procedures on recruitment are especially worth noting, belonging to citizens who have applied several times to employment ads in order to fulfill their right to employment, as well as complaints from citizens referring to the decisions for their work status after performing their work obligations as temporarily employed, as volunteers or as employed on an indefinite basis.

The Ombudsman has indicated to all bodies related to the employment procedures to apply the legal provisions consistently and to pay special attention when choosing the right candidate so as to make sure that he fulfills all the general and special conditions of the employment ad, to sign employment agreements with the selected candidates and to deliver the proper notification to all the other candidates who were not successful in the election process.

When it comes to solving the problem of work status, i.e., fulfillment of the right to transform the labor relation, especially significant is the number of cases with positive outcomes relating to citizens and their transfer of work status from definite to indefinite basis. This right was mostly fulfilled by the employees in the education sphere.

This report year, the Ombudsman has received complaints related to transfer procedures without following the proper legal procedures, as well as transfer to an inadequate position which entitles the employee to a smaller salary or a position which does not correspond to the level of the employee's expertise.

For these cases, the Ombudsman has issued indications to the bodies in charge of transfer to follow the legal provisions in a consistent manner and to pay special attention to their obligation to initiate a transfer procedure as well as to determine whether the employee fulfills the necessary conditions for the position he is being transferred to.

In terms of transfer and promotion, the Ombudsman has received several complaints from citizens employed at the Ministry of Interior, who as participants in the transfer procedures, i.e., promotion based upon internal ads have not received a notification on whether



the decision has been made and which candidate has been chosen for well over a year. Acting upon these complaints, the Ombudsman stated that the body did not act in accordance with the provisions of the Rulebook on the method and procedure of determining the career system of competent officials.

This year has witnessed an increased number of complaints from citizens requesting the Ombudsman's help to fulfill their right to compensation. The majority of citizens who cannot fulfill their right to a proper compensation come from the educational system. Acting upon the complaints, the Ombudsman indicated that the employee has the right to pension compensation, and has requested the employers to fulfill their legal obligations as soon as possible.

An increase is also noticed in the number of submitted complaints referring to violations of rights based on psychological harassment at the workplace. When indicating the respect of legal provisions, the Ombudsman has seen that the employers have accepted his recommendations for dealing with these issues and have taken appropriate measures to ensure direct meeting between the person exposed to psychological harassment and the person causing the harassment, but on the other hand no violation could be established in any of the cases and it was frequently concluded that the problem was due to poor interrelations.

This year also prevalent was the problem of complaints to the former government commission which decided upon procedures of second instance and in the domain of labor relations. Namely, after the adoption of the Law on founding a state commission for decision – making in administrative procedures of second instance and procedures on labor relations, a problem has arisen from the application of article 11 from the abovementioned Law, so that the newly formed body did not act upon the cases left open by the government commission. This problem was also present in relation to other domains in the Ombudsman's competence, and this has led to the preparation of a Special Report submitted to the Government of the Republic of Macedonia and submitting Information to the State Commission for decision – making in administrative procedures and procedures on labor relations of second instance. This Ombudsman's intervention has enabled the citizens to use their right to appeal which is guaranteed by the Constitution and the law.

Findings

During the recruitment procedures, the submitted documentation of all applicants is not fully reviewed and the candidates who have not passed the selection process are not always duly notified.

In some cases the reappointment procedures are carried out without taking the expertise of the employee being reappointed into consideration.

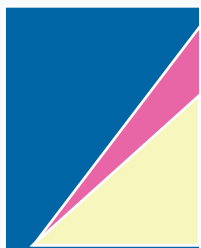
The employers do not always fulfill their obligations in the procedures on payment of salary and other compensations based on the labor relation.

Recommendation

The recruitment procedures to consistently follow the legal provisions and review the entire documentation of the applicants prior to reaching a decision on a single candidate, to keep proper records of the employment and to notify the unsuccessful candidates in due time.

Consistent application of laws in all spheres of labor relations by the employers.

The employers should not neglect the guaranteed rights of their employees, especially the right to payment of salary and compensation.



HOUSING RELATIONS

During this report year, Ombudsman has continued to take proper actions and measures in order to improve the situations in the housing domain, to fulfill the right to proper accommodation, as well as to protect the related rights regulating the housing domain. In that sense, the Ombudsman has continued to act upon the individual requests from citizens to protect the constitutional and legal rights from this domain.

The number of complaints received by the Ombudsman in 2012 related to the housing domain has reduced in comparison to the previous year, but the majority of cases continue to be related to the slow, uncoordinated, illegal, unprofessional operation of bodies that undertake activities and decide upon matters in this sphere, i.e., the Public Enterprise for Managing Housing and Business Premises in the Republic of Macedonia and its regional units, the Commission on Housing Issues at the Government of the Republic of Macedonia and the Ministry of Transport and Communications.

Out of the total number of submitted complaints, the majority of complainants have requested the fulfillment and protection of rights with the Department for Housing-Communal Affairs and Infrastructure at the Ministry of Transport and Communication, based on requests for rent of apartments in accordance with the Law on Sale of State Property and the Law on Housing. It is evident that all cases relate to apartments whose legal status has not been confirmed, and are occupied for years back by individuals who do not possess the proper documentation.

The complainants, in particular cases, have complained that although the legally determined timeframes have already passed, the Ministry of Transport and Communications has yet to deliver their response upon the submitted requests. After the inquiry, the Ombudsman has found two cases when the supplicants themselves have missed the legally determined timeframe for submitting requests to buy-out or rent of apartments. In the remaining cases it was found that the procedures for decision – making have been delayed without justification, so the Ombudsman has submitted appropriate requests, indications and suggestions and called upon immediate actions to expedite the procedures in question.

The number of complaints relating to the distribution of apartments from the "Program for



Apartment-Building for Low-Income Families” and the “Housing Project for Socially Vulnerable Groups” has reduced.

This report year, the citizens – owners of apartments continued to submit complaints requesting explanation of the management method of residential buildings, as well as advice on how to register the community as a legal entity at the Central Registry, furthermore they wondered where to turn if they are not satisfied with the superintendant’s work or with the president of the owners’ community, i.e., which body has the competence to monitor the management of the owners’ community. The Ombudsman has responded to these requests in a timely fashion.

The operation of the Joint Stock Company for Building and Management of Residential and Commercial Premises of importance to the Republic of Macedonia and its regional offices, was also the subject of several actions of the Ombudsman. This year, although in somewhat smaller number, the citizens complained on the inadequate calculations of prices for the apartments on sale, the untimely submitted calculations with the Ministry of Transport and Communications, and have requested to be exempt from paying interest and obsolete debts based on unpaid rent. Upon these complaints, the Ombudsman has initiated proper procedures, and the Joint Stock Company has acted upon them in a timely manner. Thus, the Ombudsman feels that when it comes to the implementation of the legally determined competences, the Joint Stock Company has made significant progress.

The Ombudsman has received a small number of complaints related to the Commission on Housing Issues at the Government of the Republic of Macedonia, related to the distribution of apartments for rent. The Ombudsman confirms that the state does not take sufficient care of the right to proper and affordable housing for the most vulnerable categories of citizens. This means that the explanations submitted by the Commission to the supplicants, but also to the Ombudsman, that although the supplicants satisfy the conditions foreseen by the Law on Housing, their requests are denied due to the lack of sufficient housing units in the state housing fund, cannot be substantiated.



Findings

Slow and frivolous operation of the bodies and institutions when undertaking activating and measures, i.e., make decisions on the rights of the citizens in the housing domain.

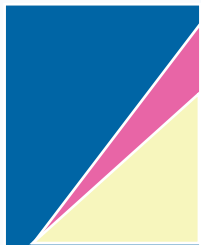
The state still does not pay enough respect to the right to an adequate and affordable housing for the most vulnerable citizen categories, since it does not portion sufficient funds for solving the citizens’ housing problems.



Recommendation

Timely implementation of measures and to expedite the procedures of decision – making by the bodies and institutions relating to the fulfillment of citizens’ rights in the housing domain.

The state to portion larger amounts for solving the housing issue of the most vulnerable citizen categories, who do not have or are unable to provide adequate housing on their own.



SOCIAL SECURITY AND PROTECTION

The improvement and maintenance of the living standards and the good social welfare of citizens are synonyms of a society which strives for social justice. With the factual and real condition in mind, as well as the average monthly salary, the constant price increases, the purchase power of the citizens, the unemployment situation, poverty and social exclusions, the Ombudsman feels the state should pay special attention to soften the effect from the economic and social situation on the unemployed, the weak citizens and those unfit for work, i.e., people at social risk.

Thus, this report year, the Ombudsman, while acting upon complaints, has found a series of inconsistencies in implementing the rights of the citizens which presents an additional obstacle for the already unfavorable position of the socially endangered citizens.

By having the content of the majority of complaints in this domain in mind, the Ombudsman has ascertained that the competent bodies frequently do not implement effective, efficient and timely procedures for fulfilling the social rights of the citizens placed at social risk.

The crucial problems were related to the untimely procedures by first instance bodies, i.e., delay of procedures on decision – making for fulfilling a certain right from the social protection domain. Namely, the Ombudsman has ascertained that certain Center for Social Works have frequently dismissed the legal timeframe for deciding upon the citizens' requests. In some cases the citizens were not properly notified, or in due time for that matter, by the competent centre on the termination of using a certain right and the reason for termination, i.e., the citizens payment of social compensation was terminated without receiving a proper decision, and this prevented them from using their right to an appeal in front of a second instance body. After the Ombudsman's intervention, the competent centers have issued adequate decisions and notified the citizens, who in turn were educated that if unsatisfied with the issued decisions they can file an appeal at the competent body of second instance. Frequently the Ombudsman continued the procedure on his own if it was established that the right has been violated without grounds or without a fully and properly determined factual state.

In regards to the fulfillment and the protection of social rights challenged by the decisions of first instance based on improperly established factual state, the Ombudsman has found that even



in the procedure initiated by the second instance body upon the submitted appeal, the factual state was again not determined properly leading to frequent dismissal of the appeals, and causing the citizens to initiate procedures at the Constitutional Court of the Republic of Macedonia, which only contributed to the delay of the procedure and led to further deterioration of the social condition of the citizens.

Furthermore, no progress is noticed when it comes to respecting the principle of the administrative procedure to reach a quick and effective decision upon the citizens' rights in the second instance procedures, i.e., decisions were rarely made in the legally determined timeframe.

In certain cases the citizens' social rights were terminated due to unregistered minimal income made throughout the whole year, for example 500.00 denars and they were also indebted to return the received compensations over a longer period of time, which meant that not only the citizens were left without their only source of means of existence, but they were indebted to return amounts without being able to do so. In some of the more drastic cases, the Ombudsman called upon the principle of equity as well, and indicated that the competent organs have acted with disrespect of the constitutional principle for social equity and social safety of the citizens. As a result, he has requested that the competent bodies review the case once more and to determine whether these symbolic incomes overcome the social risk and whether by having this income the citizen no longer belongs in the social risk category and should be denied the right to social compensation and to indebt them with returning the received compensation over a longer period of time. Namely, the Ombudsman, although having the legal provisions in mind which state that citizens are obligated to register all changes in their material status, has still indicated that attention must be paid on the amount of the income and whether the income helps the citizen to overcome the social risk, i.e., to follow the principle of social protection of citizens in the Republic of Macedonia and the principle of social equity.

In regards to the individuals unable to provide for their basic life needs on their own, the Ombudsman has stated that there are delays in the procedures to fulfill the right of monetary compensation for help and care of another person or constant monetary aid, and this was especially due to the untimely insights by competent health commissions and untimely delivery of the opinions and insights on the health condition of the supplicant.

In this context, part of the citizens who live in remote places were not visited by the commissions for providing insight, opinion and decision on their health for a long period of time, so there were cases when the commissions are over a year late which makes it impossible to receive monetary compensation for care of another person or constant monetary help. The Ombudsman has intervened with all bodies involved in the cases with the request not to obstruct the citizens' right due to their place of residence or due to other unjustified reasons and only after the Ombudsman's interventions some of these citizens have successfully used their right.

This year, the Ombudsman has again made several visits to the dislocated and homeless individuals situated in the Children Resort "Cicino Selo" in Saraj and found that this facility does not possess the proper living conditions, i.e., does not have proper health and social services, hygiene and food, and the children are not included in the educational system. The Ombudsman has submitted several pieces of information to the Ministry of Labor and Social Policy on the established factual state and has indicated the need for immediate action to finally solve the problem of the individuals accommodated in the abovementioned facility.

Moreover, several centers for social work were visited this report year in order to gain a clear image on the implementation of citizens' rights, as well as to improve the mutual collaboration, and several recommendations were given to improve their operations, especially in the aspect of more efficient, responsible and legal decision – making for the constitutional and legal rights of the citizens.



Findings

The social security of the most endangered category of citizens is still not ensured, due to the lack of activity or the improper actions of the competent bodies, especially the commissions for determining the need for constant monetary aid and compensation for the help and care of another individual.

The measures and activities taken so far by the state aimed to improve the social position of socially endangered citizens is still insufficient for alleviating their situation, and especially unfavorable is the situation of individuals who are unable to work and those unable to provide for themselves, and do not have even the most basic conditions for normal life.



Recommendation

It is necessary that all types of social aid ensure the real social security of the citizens, and the amount of the social aid should be adjusted according to the percentage of increase of living expenses.

To undertake all necessary measures in order to secure the basic needs of endangered families with no apparent income. The social compensation should go to those who are in real need of it.

The personnel and technical capacities of the Center for Social Works need to be improved which will lead to the improvement of their diligence, their effective and efficient decision – making to secure the social rights that are of vital importance for the citizens.



PENSION AND DISABILITY INSURANCE

Based on the constitutional warranty to ensure the citizens' social security by respecting the fundamental values of the constitutional order – humanism, social justice and solidarity, the need arises to provide conditions and possibilities for efficient and timely fulfillment of the right to pension and disability insurance, both of existential importance for the citizens. Thus, the competent bodies should undertake all the possible measures and provide the citizens with the full and effortless use of these rights.

However, just like previous years, practice has shown that the citizens fulfill these existential rights in a slow and difficult manner, and there are several cases when the citizens were left with no existential means, due to the termination of their labor relation and they have not requested their right to pension in time or within the legal timeframe and most frequently the reason behind this is the groundless delay of the procedures by competent bodies.

The majority of complaints received this report year, referred to delays of the procedure by competent bodies, especially bodies of second instance. Furthermore there were complaints regarding the right to disability or retirement pension, and present also were problems with the pensionable service and with the fulfillment of the right to family pension. A smaller number of complaints referred to the termination or limitation of the rights to pension and disability insurance and other difficulties related to the fulfillment of rights in the pension and disability insurance.

ance domain.

When it comes to disrespecting legal timeframes in order to fulfill the rights to pension and disability insurance it has been found that the procedures of decision – making last the longest especially when an appeal has been submitted to a second instance body. The competent state commission for decision – making in second instance administrative procedures and procedures of labor relations has inherited a large number of unsolved cases from the previous year when the operations of the competent second instance government commissions were terminated, which has led to an increase of the number of unsolved cases, since new complaints continued to be submitted and this has created additional difficulties for the newly- found commission and delays in its procedures.

Since the long duration of procedures relating to rights to pension and disability insurance violates the citizens' rights, the Ombudsman has frequently intervened with the competent bodies, through written requests as well as immediate insights, and has continuously indicated the need to take measures and expedite the procedures, but his indications were not always followed.

In regards to the fulfillment of the right to disability pension, the citizens continued to demonstrate their disappointment and felt that the decisions of competent commissions when establishing their capability to work have not been objective. A large number of complaints have been submitted this report year as well, relating to the delays in the procedures to fulfill this right, since only one commission was operational for a long period of time due to the court proceedings against members of these commissions, and new members have not been selected.

The Ombudsman, acting upon these complaints, has informed the Fund and requested immediate actions to expedite the procedure but also to establish the factual state and make objective insights, so that the citizens who have actually lost their working ability can fulfill their right to disability pension. Since during the second half of this report period the number of members of the competent body has increased (three commissions are functional since September 2012), the efficiency in decision – making has improved significantly.

The citizens have also demonstrated their disappointment with the legal obligation for control examination after gaining the right to disability pension, stating that it creates legal insecurity, but since this possibility is foreseen by the law, the Ombudsman did not have the opportunity to intervene in the majority of these complaints. However, considering that the legal regulations governs precisely which health conditions are subjected to control examinations and that the issued decisions on granting the right to disability pension cannot be altered, if these provisions were not respected, the Ombudsman intervened with the recommendation not to violate the right of individuals who have lost their working ability on a permanent basis.

A small number of complaints received this report year related to the right to disability pension, whose procedure is delayed due to the transfer of some cases over to the Ministry of Interior so they can be processed as a result of a doubt that a criminal act has been committed by using falsified or questionable documentation when requesting the fulfillment of this right of based on the doubt that citizens have bribed someone in order to fulfill this right. The Ombudsman has intervened at the Ministry of Interior requesting that all cases were no grounds for criminal act were found to be returned to the competent body so that the citizen can continue the procedure for the fulfillment of this right.

The number of complaints related to the right to retirement pension has increased this report year. The majority of complaints from this domain refer to the untimely and inefficient handling by competent bodies, frequent disrespect of legal timeframes for decision – making upon citizens' requests, so the Ombudsman has indicated that a violation is made on the citizens' rights and intervened so that the procedure can be expedited and the citizens could fulfill their rights.

The failure to fulfill the right to retirement pension was caused by same reasons as in the previous years, by lack of data or wrongfully entered data in the birth register, untimely paid incomes or untimely delivery of the necessary data to the Pension and Disability Insurance Fund by the employers.

In relation to the problem with payment of contributions, the Ombudsman has insisted that

the Pension and Disability Insurance Fund undertakes all measures stipulated in the law to pay the contributions in order to ensure the fulfillment of the rights of those insured, and the Fund has taken the appropriate measures and allowed citizens to enjoy their rights. However, in certain cases there were obstacles in the payment of contributions due to the open liquidation cases or bankruptcy proceedings of the company. In other cases, citizens could not enjoy their right to pension due to the unregistered pensionable service although its fee for pension and disability insurance has been paid. The pensionable service was frequently not registered due to the lack of appropriate evidence that the compensation has been paid for the entire employment period of the citizens, or due to the lack of necessary documentation and forms delivered by the employer which are vital for proper registration of the pensionable service and the working service in the Fund's registry.

The number of complaints relating to the right to family pension was quite large again this year, and this of course is a consequence of the implemented changes and amendments in the Law on pension and disability insurance which changed the conditions of the right to family pension, i.e., increased the age limit of the spouse, widow or widower, preventing a large number of citizens from using this right due to the increased age limit. Considering the legal decisions in the majority of cases, the Ombudsman did not have the basis to initiate procedures.

Unlike previous years, the number of reports relating to the pensionable service has increased this report year. In certain cases, the pensionable service was not registered in the Fund's registry although all compensations have been paid upon court decision, and the only reason being that the employer has failed to pay the interest for late payment of the compensation. In these cases the Ombudsman has intervened so that the pensionable service with paid compensation can be registered, indicating that it is not the employee fault that the employer has failed to make the payment in time or has failed to pay the interest. Considering the legal regulations and the already formed attitude of the Fund in regards to this question, the Ombudsman considered this problem solved, but there were certain cases when the Fund despite the paid compensations did not register the pensionable service due to unpaid interest and failed to follow the Ombudsman's indications, making it impossible for citizens to enjoy their rights.

Furthermore, a large number of citizens have faced difficulties when it comes to fulfilling their right to pension based on international and bilateral agreements, especially when fulfilling the corresponding proportion of the pension or during the pre-retirement for years of employment served in the former Yugoslavian Republics. In order to overcome the problems and expedite the procedures with foreign competent bodies, the Ombudsman has requested the Fund to address the foreign bodies continuously. In addition the Ombudsman has made direct contact with the officials at the foreign bodies, and contributed to expediting the procedure, which resulted in positive outcomes for the citizens. However, in certain cases the procedure was also elongated as a result of citizens failing to submit the necessary documents for fulfilling this right. In these cases, the Ombudsman has advised them on how to proceed and after submitting all the necessary documents, has intervened so that the request is solved quickly and the already acquired pension is paid.

When it comes to the fulfillment of the right to pension with a foreign element it has been frequently noticed that the delay of the procedure is mostly due to the settlement of damage claims between contracting countries. In order to fulfill the right to pension from other countries, this report year once again the Ombudsman experienced good cooperation with the foreign Ombudsman institutions, especially with the ones from the former Yugoslavian Republics, which led to expediting the procedures and the fulfillment of the citizens' rights in this pension domain.

A certain number of citizens complained on violations of rights to pension related to subjects of execution. Namely, an increase is noticed in the number of citizens who complain that a portion of their pension was withheld due to the ungrounded payment of pension with already issued court decisions, and in the majority of cases the Ombudsman stated that the Fund has respected the law and withholds only a third of the pension amount. There were complaints from citizens that a portion of their minimal pension is withheld as well as from the compensation for physical impairment, a portion much larger than the amount stipulated in the law, but after the inquiry the Ombudsman found that the competent body has followed the legal regulations.

A small number of complaints from this report year were related to the problems with the Solidarity Fund, to the unfulfilled right to compensation for physical impairment, unfulfilled right to being accommodated in a nursing home under rent, right to reduced work hours, right to minimal pension, right to unpaid severance by the employer and the like.

During this report year, citizens continued to seek advice in their complaints on certain rights from the pension and disability insurance domain, and the Ombudsman has paid due attention to all complaints and indicated the legal regulations, the possibilities and conditions to fulfill certain rights.

Findings

Citizens fulfill their rights to pension and disability insurance in a slow and inefficient manner due to the unjustified delay of procedures by competent bodies.

Due to the difficult cooperation between competent bodies and the Ombudsman, citizens are faced with difficulties when trying to fulfill their rights to pension and disability insurance.

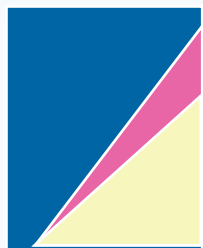
Delivery of unsubstantiated responses by competent bodies upon the Ombudsman's request has continued, as well as the difficult communication with these bodies aimed at the fulfillment of citizens' rights.

Recommendation

To follow the legal timeframe for decision – making upon citizens' requests, to expedite procedures upon submitted appeals, i.e., faster and more efficient decision – making in the second instance procedures.

The commissions on evaluation of the working ability to make faster, more efficient and more objective decisions, in accordance with the established factual state related to the working ability of citizens.

To deliver complete and right responses upon the Ombudsman's requests so as not to obstruct his timely protection of citizens' rights.



HEALTH INSURANCE AND PROTECTION

In accordance with the Constitution of the Republic of Macedonia every citizen of the Republic of Macedonia is entitled to unobstructed fulfillment of the right to health protection and to protect and promote their health and the health of others. In practice, citizens often face difficulties and problems in fulfilling this right, as it is evidenced by the Ombudsman according to the submitted complaints, whose number has increased this report year in comparison to previous years.

Namely, the complaints the citizens have submitted to the Ombudsman, in the health protection and health insurance domain, based on their numbers, indicate that one of the most common problems in fulfilling the rights from this domain is the delay of procedures by competent bodies, especially bodies of second instance. Furthermore, there are a large number of com-

plaints relating to reimbursement of fees for received medical services which were supposed to be covered by the Fund, but the insured have paid them themselves. In addition, the citizens are faced with problems relating to the fulfillment of the right to mandatory health insurance, timely use of medical services and payment of fees for certain medical services. A special problem again this year presents the delay of procedures or lack of adequate insight and evaluation of work ability, as well as the granting of payment for pregnancy leave and maternity leave compensation, as well as compensation for absence from work due to injury or sickness. Although in somewhat smaller number, the Ombudsman has received complaints referring to sloppy, unprofessional and substandard medical treatment, and several complaints referred to the violation of the right to medical treatment abroad.

In this report year, the citizens usually requested the Ombudsman's intervention in the unjustified delays of procedures in fulfilling the rights to health protection and health insurance with the Ministry of Health as a body of second instance. The Ombudsman has stated that this year, same as before, the competent bodies are insufficiently involved in responding to the citizens' requests, especially upon submitted appeals, and there are also evidence of lack of actions and delay of procedures after the issued court decisions, making it impossible for citizens to fulfill their constitutionally guaranteed right to health protection.

In order to surpass this problem, the Ombudsman has submitted several requests with the competent bodies, has made multiple direct insights, and has frequently submitted special reports to the Ministry, i.e., to the Minister of Health, based on the lack of activity upon his requests and the requests of the citizens, which obstructed the procedures, and disabled citizens from fulfilling their rights upon submitted requests or appeals. However, despite the increased number of Ombudsman's intervention, the citizens' requests and appeals were left unanswered for a long period of time, and no actions were taken upon the Ombudsman's requests and interventions. As a result, the Ombudsman has submitted a Special Report to the Government of the Republic of Macedonia providing information on the situation with fulfilling the citizens' rights and the obstructions in the Ombudsman's work related to the procedures initiated upon submitted complaints. After the multiple Ombudsman's interventions, in the second half of this report year, actions were taken upon large number of the Ombudsman's requests and interventions, i.e., the citizens' appeals and requests were solved with adequate acts, but the problem is yet to be solved since there are a lot of unsolved cases based on submitted appeals at the Ministry as a body of second instance.

A portion of the complaints referred to the reimbursement of assets, i.e., fulfillment of the right to compensation of medical costs in the health institutions. Upon these complaints, the citizens who met the legal conditions successfully fulfilled their right after the Ombudsman's intervention. However, the practice of competent bodies to deny the reimbursement requests has continued, especially relating to medical services in health institutions that do not collaborate with the Health Insurance Fund, because based on the legal regulations and the decisions of the Constitutional Court of the Republic of Macedonia there is the option to grant the reimbursement of costs only for those medical services received in health institutions that collaborate with the Fund.

Unlike previous years, the number of complaints related to the fulfillment of the right to reimbursement for medical expenses and medical aids has increased this report year, and the expenses are paid by the citizens although they should be covered by the Fund and secured by health institutions, especially in cases of hospitalization. Citizens fulfilled this right with difficulty and faced problems with the long duration of procedures or have been reimbursed with a smaller amount than the actual medical expenses, but after the Ombudsman's intervention within the legal regulation framework the citizens were able to fulfill their rights.

Furthermore, a significant number of complaints related to the limitation of the right to mandatory health insurance due to unpaid contribution fees from a previous period or on the basis of which has expired. Thus, although they had paid the current contribution fees on time, citizens were not treated as insured persons. The Ombudsman has again indicated to the Fund that the insured persons are entitled to receiving certificates for health insurance, because they have paid their current contribution fees and should be treated as insured individuals. The Om-

budsman has indicated to the legal possibilities for charging old debts, but the Fund acted upon the legal regulation according to which insured individuals who do not pay the contributions fees regularly or they are late for more than 60 day, shall be deprived from the rights to mandatory health insurance, except for the right to emergency medical help. The Fund continued to restrict the rights of these individuals, until the pending debt has been settled. And despite the Ombudsman's indications and interventions that the Fund cannot charge the regular current contribution fee and then deny the insured individuals from their health insurance certificates and disabling them from using health protection as insured citizens, the Fund remain firm on its ground and the citizens were unable to receive certificate for paid contribution fees and enjoy the status of insured persons until their outstanding debt is not paid in full.



A small number of submitted complaints referred to the non – recognition of the citizens' insurance status without any legal ground, so the Ombudsman has intervened in all cases when citizens met all the legal conditions to be granted the status of an insured individual, and the competent bodies followed the Ombudsman's indications. Those citizens who did not meet the legal conditions were given advice on the legal regulation and the conditions to be fulfilled in order to enjoy this right.

Part of the complaints referred to the violation of the right to salary or compensation during absence from work for pregnancy, childbirth and maternity leave due to delay of procedures, faulty calculations of the compensation amount and non – payment of compensation due to unpaid contribution fees. Upon the Ombudsman's interventions the majority of cases have resulted in successful fulfillment of the right to pregnancy, childbirth and maternity leave compensation.

In addition, the Ombudsman has received complaints on salary compensation due to sick leave or absence from work based on personal injury, complaints on the estimation of the working ability and working incapacity. In some cases the Ombudsman has ascertained the factual state and upon his interventions the citizens have fulfilled their rights, but in other cases the Ombudsman found no violations of the rights and therefore did not initiate any procedures.

Furthermore, several complaints were submitted the Ombudsman referring to inadequate, unprofessional and substandard medical treatment. The Ombudsman has requested inquiries to be made on these cases, so upon the Ombudsman's requests, special commissions were formed in order to ascertain the presence of inadequate and unprofessional treatment. In cases the Ombudsman acted upon, although expert commissions were formed they did not find any omissions in the treatment, and the Ombudsman, not being able to confirm the validity of the findings, advised citizens to initiate court proceedings.

Unlike previous years, this year there was a large number of complaints referring to the fulfillment of the right to treatment abroad. Citizens mainly complained on late responses to their requests for approval of treatments abroad, and some of the citizens complained that the competent bodies have rejected their requests without proper grounds and without considering the entire submitted medical documentation as well as the fact that no conditions and possibilities exist for the treatment to be received in the health institutions of the Republic of Macedonia. The Ombudsman has intervened to expedite the procedure and to ascertain the factual state, and if the treatment cannot be received in the Republic of Macedonia, citizens should be granted the right to treatment abroad, and a large number of citizens actually fulfilled this right.

There were also complaints referring to the unequal treatment of citizens when preparing contracts and establishing medical institutions, upon which the Ombudsman has addressed the

Ministry of Health indicating violation of the citizens' right to equal treatment should they not be included in the health institution network, considering the fact that they have responded to the public ad, have fulfilled all the necessary conditions, and yet the Fund has denied them the right to contract. The procedure for these cases is still in progress.

This report period, the Ombudsman has also acted upon complaints from citizens referring to inadequate treatment from medical personnel in certain health institutions, i.e., they were charged with a higher contribution fee than the one stipulated by the law, without issuing them the proper fiscal bill, as well as situations when their personal documents were withheld because of unpaid contribution fees or other expenses imposed by certain health institutions. In regards to the ungrounded withholding of citizens' personal documents due to unpaid medical expenses, the Ombudsman has indicated to the health institutions that there is no ground on which the health institution can withhold the citizens' personal documents and that this type of method for forced payment of medical expenses is illegal and they should use the legally established ways for late payment of insured individuals and other citizens who have used their medical services. Furthermore, upon the Ombudsman's request the competent bodies have performed proper insight and control of the health institution in question, and several irregularities were found in the operation of several health institutions, resulting in the undertaking of adequate measures.

Findings

The citizens' rights to health protection and health insurance were infringed by the late actions upon the citizens' requests.

The competent bodies, especially the Ministry of Health has again this year acted late upon the citizens' requests, and this is also true in regards to the Ombudsman's requests and interventions.

Recommendations

Normative and practical conditions and equal opportunities for each citizen must be provided so that the right to health protection and health security can be freely realized.

The personnel and technical situation of the Health Insurance Fund and the Ministry of Health should be strengthened in order to facilitate efficient and legal actions upon the citizens' requests and complaints.



CHILDREN'S RIGHTS

Introductory remarks

In the year 2012, the Ombudsman has again found violations of the rights and the best interest of children made by the family, institutions and departments obligated to take care of children. Difficulties in fulfilling the children's rights in various domains, among others, were noticed due to the fact that children are still not treated as subjects with special rights, interests

and obligations, they are not part of the decision – making process related to their rights and interests, i.e., little or no attention is paid to the opinions and attitude of children by the subjects who are actually supposed to look after the children's rights and interests.

An increase of the number of complaints related to the protection of children's rights has been noticed this report year, and the problems children face have not changed. The actions taken upon complaints have indicated that more rigorous measures must be taken by all subjects in order to respect the basic principles of non – discrimination, the best interest and participation of children and their full and consistent implementation in practice so that the children's rights can be fulfilled.

On the other hand, the fact that complaints still exist, submitted by parents or other individuals on the children's behalf, and not by the children themselves, indicated the already stated need of raising children's awareness in regards to their rights and obligations foreseen in the Convention on the Rights of the Child and their legal regulations in the Republic of Macedonia, so the children can themselves recognize their rights and the violation of those rights, as well as to know where to seek protection.

Family rights

The Convention on the Rights of the Child defines "a child" as a person below the age of eighteen. This does not mean that until they reach maturity, children should be treated as silent observers of matters surrounding them and which affect them. On the contrary, a child that is capable of forming its own opinion, besides the right to an own opinion he has the right to freedom of speech upon all matter that affected them, so his opinion should receive special attention in accordance with the child's age and maturity. This right related to the family, the institutions that decide on his rights and obligations, and it should be considered during the formation of policies so that children's rights have the utmost priority.

In this context, while fulfilling the right of a child it is necessary to maintain personal and immediate relations and contacts with the parent the child does not live with, it is crucial that the child's opinion is heard, of course in accordance with his age and maturity and to always have the child's best interest in mind when making decisions concerning the child's well being.

What do the Ombudsman's actions indicate?

The most common reason for submitting complaints in relation to children's rights this report year was the violation of the right of the child to maintain personal contacts with a parent; the child does not live with, and belongs to the family rights domain. However, just like previous years, the complaints were submitted by parents, other family members or citizen associations, while the children, although involved in the problem, were treated as a mere "party" on behalf of which decisions were made or protection was required. In cases when children showed resistance to maintain personal contacts with a parent the child does not live with, the majority of procedures were delayed without taking the necessary measures to find the reason behind the resistance or without helping the child overcome the resistance, which resulted in no personal contacts which in turn had a negative effect on the proper psycho-physical development of the children.

The Ombudsman has paid special attention to this issue especially in regards to decision – making and the execution of the decision by the competent Center for Social Works. Namely, the Ombudsman has indicated to the competent Center for Social Works that this right of the child is guaranteed with international and domestic legislation, and has pointed out the need to monitor the family, or more precisely to monitor the parental right before making any decision upon a request or before the center undertakes any action upon the matter. According to the Ombudsman the regular and continuous monitoring of families with severed marital relations and family ties will help the Center for Social Works to gain a clear image of the family and the condition of the child from social, educational, parenting and other aspect, which will lead to making better

overall decisions and to act in the child's best interest.

The practice when one parent obstructs the child's personal contact with the other parent, the child does not live with, has continued, and children were again used as means to settle the problems between adults, i.e., parent. In comparison to previous year, in 2012, several centers have begun to implement the foreseen measures from the Law on Family according to which it is impossible for one parent to prevent the personal meetings between the other parent and the child, and when such regulations were not implemented the consequences led to changes in the child's behavior and the occurrence of rejection attitude when the child refuses to see the parent he does not live with.

Due to the seriousness of the problem and the sensitivity of the issue, last year, the Ombudsman has organized a round table discussion dedicated to the right of a child to maintain personal and immediate contacts with the parent the child does not live with. The discussion have confirmed the opinion and efforts made by the Ombudsman to secure continuous counseling and expert measures with the child, but also with the family as a whole, an at the same time to seek out other measures, including the referral to specialized institutions for counseling and help in family and child matters, so that the condition in the family as a whole can be improved. The opinions and recommendations of the Ombudsman related to the right to unobstructed personal contacts between the child and the parent, the child does not live with are also published on the institution's web page.



On the other hand, there has been an increase of complaints related to the disappointment of citizens on the action of the Center for Social Works and the question of "expertise" when it comes to handling cases related to the fulfillment of the abovementioned children's right. The Ombudsman, acting upon these complaints, has requested that the Ministry of Labor and Social Policy performs expert monitoring of the expert teams at the Center for Social Works on behalf of the Institute for Social Activities, and in the majority of cases the Ombudsman's requests for expert monitoring were accepted. By having in mind the child's best interest, the Institute has given the expert teams directions for proper and adequate handling of individual cases, has indicated the need for counseling the child and the family as a whole in order to overcome the situation at hand and has pointed out the need to undertake other necessary measures to secure the right of the child to live with both parents and in this sense to ensure the right to regular and quality personal contacts with the parent the child does not live with.

Although the number of complaints related to lack of activities taken by the Center for Social Works for taking custody of a child from one parent and granting the custody or returning the child to the other parent is not large, the procedures initiated upon these complaints indicated the need for additional measures in order to improve the work of competent bodies, especially to improve the coordination among the bodies and the dynamics of their actions. Namely, the Ombudsman has found that this problem is still present and there have not been any significant changes in the duration of the procedures, although one parent has received the custody of the child/ren with proper legal acts, due to the unsuccessful attempts to take and return the children over to the parent who they are supposed to live with, the children remain with the other parent or sometimes even with individuals who have no family ties to the children from a legal point of view.

The Ombudsman has also intervened in several cases for personal relations and contacts

between children who are citizens of the Republic of Macedonia and parents who live abroad. Since the Convention on the Right of a Child guarantees this right even when one of the parent lives in another country, the Ombudsman has requested that the competent bodies act in accordance with the Hague Convention on the Civil Aspects of International Child Abduction, and in several cases has initiated procedures to assign a legal guardian of a child and the competent Center for Social Work to issue a decision after the completion of the procedures, and these were successfully implemented in accordance with the Convention.

Family and other type of violence against children

The Convention on the Rights of a Child and the domestic legislation impose obligations to protect children from any type of violence and abuse by all means necessary. Despite these regulations the children are again found as victims of family violence, violence in schools and there are several cases when the violence on the child was inflicted by an adult, but also cases of violence among children themselves. The Ombudsman has reacted appropriately with the competent bodies and in some cases even after submitting complaints has initiated procedures on his own initiative.

Most complaints on family violence were submitted by female individuals for their own protection and for the protection of children, but the Ombudsman has also received cases for protection from family violence on the elderly. Several cases were seen this year when a single person submits multiple complaints for protection against family violence because the violence has continued. The Ombudsman, while acting upon these complaints has found lack of implementation of stated measures and in order to protect the victim/s has intervened for situating the individual/s in a Center for protection of victims of family violence or so – called shelters. In regards to the children, it was found that in a family experiencing family violence, the children are victims whether they are directly exposed or only witnesses of violence, so beside protecting the adult victim at the competent centers, the Ombudsman has intervened that measures are taken to protect the children and to fulfill their rights in a family of violence, and has indicated the proper implementation of the Law on Family when suggesting measures to protect against family violence.

In regards to violence on students (physical and psychological harassment) from the teaching staff or other employees, several complaints were submitted this year, for protection against psychological harassment of children by the teaching staff, but there were also complaints indicating physical harassment by parents of other students. In order to implement the educational process and the goals of education, the Ombudsman has indicated that the education of the child should be directed towards the development of his personality, his talent and mental and physical abilities, and has point out the obligation of the school to undertake measures for maintaining discipline in the school in a manner that will respect the child and its dignity as a person, and not by using violence and harassment. In this context, beside addressing the school managers and the expert services in relation to the reported violence cases, the Ombudsman has indicated that competent educational inspectorates on local and central level monitor the factual situation in the schools and to take measures against the inflictors of violence i.e., to sanction the negative behavior towards children. In cases when the violence was confirmed, measures were taken against the inflictors, most commonly warnings issued to the teaching staff, and in some cases they were charged with fines.

Especially present was the violence among children in and outside of school which once again raised the question of safety in schools. The Ombudsman issued information to the Ministry of Education and Science and requested for a systemic and normative solution for creating conditions of physical safety in schools, and even control whether the children or those entering the school carry firearms. The Ombudsman, among other things, has indicated the need for a more proactive role of the expert services in the schools to establish a good contact with the students

and their parents, to cooperate with the competent individuals at the Center for Social Works, in order to strengthen the educational component in the educational process, to prevent the problem and undertake timely measures so that problems of negative behavior among children do not escalate and to prevent all deviant and inappropriate behavior in the schools.

The facts confirm that every school continues to determine the method of security in the school itself, and by that the safety of students in the educational process. Most commonly schools have a controlled access, student (teacher) orderly, video surveillance (safety cameras) or they hire professional security or policemen. Considering the fact that physical aggression is still present in the majority of schools, the need for the involvement of all social subjects important for children is emphasized, in order to prevent and solve conflicts and the current intolerance among children. Among other things, it is vitally important that we educate the youth on non-violent behavior by raising their awareness on the basic freedoms and rights and duties of children, by educating the children, the teachers, the parents, the officials for proper respect of the children's rights and the duty to respect other's rights. Furthermore, the involvement of the Center for Social Works is also necessary so that the conditions within the family can be solved, especially for those children who demonstrate anti-pedagogic, violent or other type of inappropriate behavior in or out of school.



The Ombudsman has organized a round table discussion on the types of violence on children and among them, and has indicated, among other things, that the family and the school should provide safety and security and should educate children on non – violent behavior, and the society (community) should be actively involved in reducing any type of violent behavior and in promoting healthy lifestyles.

The Ombudsman feels that the problem of violence is a complex one and required more detailed analysis so that the causes leading to aggression among children can be determined, as well as the causes among teachers, and requires finding more concrete and efficient measures in order to prevent and protect from the occurrence of any type of violence on children with long-lasting effects on their development.

Protection of Children from Information Harmful to their Health and Development

By following the situation with the protection of children's rights in a world filled with constant technological development, as well as the availability of the information to children and the youth, the Ombudsman has found that the information made available to children through different media and technology are not always appropriate and useful for their development, Namely, the modern means of receiving information (through the media or electronically) continues to be a huge influence on how children and the youth form their attitude towards the condition of the society and on the development of their perception on how the society functions. It is then without a doubt that information reaching children and the youth, should be directed towards creating proper criteria on the living and social values and to contribute to the development of healthy individuals.

Although the number of complaints received in this domain during the report year is insignificant, the general state undoubtedly points out the conclusion that children are exposed

to information on a daily basis which is harmful not only to the proper development of their attitudes, but is also harmful from a psychological point of view and have a negative influence on their normal growth and development. Namely, children are exposed to television shows and programs that contain violence and cannot be seen as a positive influence. On the other hand is the influence of the various social networks, which instead of promoting the sense of human values, respect and differences and tolerance, they promote feelings of mistrust and fear of anything different.

Considering the obligation foreseen by the Convention for protection of children against information inappropriate for the age and development level, the Ombudsman has organized round table discussion dedicated to this topic and supported by the Royal Netherlands Embassy in the Republic of Macedonia. Furthermore the Ombudsman has debated the subject of protection of children against the online abuse at the Children's Right Ombudsperson Network in South and Eastern Europe (CRONSEE) held in Budva.

The discussions from both events have confirmed that the relationship with the children requires cooperation and open conversation, understanding and mutual respect and trust. If these are the basis for building and developing the parent – child relationship from the child's earliest age, the child will not be afraid to seek help on any type of situation that may harm or endanger him, in real life or online. On the other hand, the competent bodies should fulfill their duties more seriously and consistently and to strive for limiting the information available to children and to act in accordance with the established standards so that the information children and the youth acquire are directed towards forming proper criteria on living and social values and to contribute to the development of healthy personalities and this, among other things, emphasizes the need of educational shows and programs on all media types not only for the children but the adults as well.

The rights of people/children with special need

The department for protection of children's rights and rights of persons with special needs has continued to monitor the condition of protecting and fulfilling the rights of persons/children with special needs throughout the year 2012 and the number of complaints in this domain has increased in comparison to previous years. The complaints refer to the involvement of children in regular education, the usage of the rights to health protection and health insurance, placement of individuals with special needs in institutions for social protection, usage of the rights to social protection, delays of procedures at second instance bodies for fulfilling the right to health protection, lack of activities upon the requests related to rights of persons with special need, as well as complaints for untimely reimbursement for the contributions of a self-employed disabled individuals.

According to the Ombudsman, because of their disability, the persons with special needs are faced with various difficulties on a daily basis, since the rights belonging to these citizens are not always protected.

All efforts should be directed toward the promotion, protection and enjoyment of all human freedoms and rights, towards the respect and dignity of these individuals, without any type of discrimination based on their disability. This among other things entails complete and efficient participation and activity in the society with equal possibilities and equal access to all goods and services.

Acting upon complaints has demonstrated that persons with special needs face problems when fulfilling their rights especially in the health protection domain, problems with granting medical treatment abroad, mostly due to the long procedures of decision – making. The Ombudsman was involved in a case that has lasted well over a year and is still not concluded, concerning parents who every month are forced to provide their child's medication at their own expense because the medication is not on the positive list, is quite expensive and not taking them would

threaten the child's life. However, despite all of the Ombudsman and the parent's efforts, the competent bodies are yet to undertake measures to overcome the child's problem and to ensure the highest level of health protection as a right guaranteed by the Convention on the Right of a Child.

The Ombudsman has found that children with impaired vision, as well as new cases of individuals (children) that have lost their sight, cannot fulfill their right to a special compensation, because the Commission that is supposed to issue a diagnosis, opinion and estimate, i.e., to classify the disability, has not been operational for over a year.

Acting upon a complaint submitted by the Association of Parents of Children with Retinopathy of Prematurity "Vidi Me", the Ombudsman has found that the lack of activities by the competent commission have obstructed the parents of visually impaired children to fulfill their right to a special compensation and by no fault of their own have been put in a situation of losing this right. In order to fulfill the right to a special compensation, the Ombudsman has issued an indication to the Ministry of Health, the Ministry of Labor and Social Policy and the public enterprise "Inter-Municipality Center for Social Work" based in Skopje, and after accepting his indication the commission has begun its work.

The rights of individuals with special needs as patients was a topic subject at the round table discussion, organized by the Ombudsman within the framework of the Twinning project in support of the Macedonian Ombudsman, and in the presence of competent bodies and institutions from this domain, representatives from non – governmental organizations and citizen associations, as well as representatives of the Spanish National Ombudsman and the Mediator for France. The discussions from this round table produced several recommendations and many conclusions were made on the need to create normative and practical conditions for using health services for persons with special needs with the highest standards without discrimination and in the same scope, quality and standard as that of free and available medical care. These conclusions and recommendations are published on the Ombudsman's web page.

In 2012 several problems were found with the process of fulfilling the right to education of children with special needs included in the regular education system. Namely, from the submitted complaints, the Ombudsman has found that despite of the promotion of inclusive education, the children with special needs do not always exercise their right to regular education freely and this is mostly due to the pressure from parents requesting that children with special needs are removed from the grades of their children with the explanation that the special needs' children obstruct the normal educational process.

Acting upon these complaints, the Ombudsman has requested that school/s employ an adequate expert (defectologist) to work with these children, so that they are not discharged from regular school.

The Ombudsman feels that children with special needs, in accordance with their condition, should be enrolled in regular education and enjoy the same treatment as other children without discrimination and prejudice, to be accepted in their environment and to secure conditions for regular attendance in the educational institutions by providing expert help from expert individuals so that the material can be understood and learned.

Furthermore, the Ombudsman has visited a large number of day centers for persons with special needs, and beside the established positive benefits and the help these centers provide for these individuals and families, there are still problems the day centers have to face on a daily basis. It has been found that these day centers do not always possess sufficient material assets to secure the normal operation of the daily necessary activities and tasks and that not all centers possess the adequate and necessary personnel, technical and financial means.

The visits made at the day centers have confirmed that the operation of these centers is a good solution, since the children are removed from the family environment, they receive special attention and care, not only the children but the families as well, individuals with special needs receive treatments for rehabilitation and socialization, and active participation of individuals with special needs is encouraged in all aspects of social life. In addition, by accepting the individuals with special needs the support to overcome the condition of social isolation is encouraged, so that they can be easily adapted in new environments, and positive changes have been noticed

in the behavior of children with special needs since they develop certain skills and abilities, their independence, communicative and work skills are increased, as well as their motor and speech skills and all of this is aimed towards raising the awareness on proper and adequate treatment of individuals with special needs.

With the Convention's ratification of the rights of disabled individuals, at the United Nations, the state is obligated to respect the rights of disabled individuals and to contribute to the dignified life of these citizens by including them in all aspects of society and through creating opportunities for their active participation, including the right to employment.

The research made by the Ombudsman on the right to employment of individuals with special needs, has indicated that despite the existing good laws and bylaws, their implementation is inconsistent and incomplete. Namely, in practice, these individuals face stereotypes and prejudice when trying to fulfill their right to employment due to the lack of information available to employers as well as the individuals seeking employment on the rights, obligations and responsibilities stipulated in the labor relation. Citizens are also disappointed with the monitoring bodies and this has led to the discouragement of disabled individuals in regards to reporting violations by employers, and the same level of disappointment is directed towards the Commission for issuing diagnosis and opinions during their first employment or during the transfer of work positions.

This research, among other things, has indicated that the competent bodies do not possess all the data on the right to work and employment of individuals with disabilities on all accounts. Especially lacking is the unique registry of the number of individuals with disability that are capable to work, the number of individuals with legally terminated labor relations, but also in cases then the employment was ended without following proper legal procedures. Furthermore, the communication between an individual with a disability, the employer and the body /institution is difficult, depending on the obstacle in the person's development, which leads to a slow and incomplete process of socialization of the individuals with disability. In addition, the openness of the Administration for Employment needs to be increased in regards to these individuals. That is why conditions and opportunities for employment have to be created, i.e., to increase the number of employments of individuals with disability in the so – called Protected Trading Company, but also in the public and state administration.

On this topic, the Ombudsman has organized round table discussion in 2012, and the findings and recommendations from the discussion were published on the institution's web page.

Health protection

The constitution of the Republic of Macedonia guarantees each citizen the right to health protection, but also emphasizes the obligation of citizens to protect their health and the health of others. This means, that children not only have the right to health protection but also have the obligation to protect their own health, which also entails not using narcotics and other psychotropic substances harmful for their health, and they are also obligated to protect the health of others, i.e., not to impose narcotics on other children.

The Law on Children's Protection obligates the institutions in the system to undertake all the necessary measures in order to protect children from illegal use and other forms of abuse of illegal production and trade with narcotics, psychotropic substances and precursors.

The Ombudsman has monitored the problem of drug abuse for a long time and has made several visits to institutions in charge of treatment and healing of substance abusers. These visits were made upon submitted complaints as well as on the Ombudsman's own initiative. According to the Ombudsman's findings the number of children who abuse drugs and other psychotropic substances continues to increase and the age limit when children first start using narcotics is constantly lowered (7 – 8 years of age). These children are orphans or lack parental care. The majority of children facing this problem belong to the Roma community. The Ombudsman has addressed the competent bodies several times with requests to review this problem more seriously

and has recommended that all necessary measures are taken (legal, administrative, social and educational) in order to prevent children from using drugs and becoming addicts, and especially the need to establish health institutions and facilities for proper treatment, healing, help and protection of children who abuse narcotics.

In this context, the Ombudsman has stated that the country lacks adequate facilities and personnel resources in the health institution network, as well as unique protocols for treatment, healing and rehabilitation of children who abuse narcotics. A special strategy is needed as well as special measures so that the treatment children receive will be different from that given to adults, but there are no opportunities to accommodate the children in special institutions for healing and treatment. Among other things, there is no space or proper conditions for treatment and accommodation of addicts, and the Psychiatric Hospital "Skopje" does not have a special unit for addicts or space to foster and accommodate all interested addicts in the Program for Addiction Treatment. The number of centers for addictions is insufficient, and this is also true for the clubs in municipality of Skopje and other cities where the immediate need for treatment of addiction is clearly visible.

Having in mind that children are frequently pointed out as users of drugs and other psychotropic substances, all necessary measures must be taken so that children receive different treatment than that given to adults, to find opportunities for accommodating the children in special institutions for healing and treatment, and to actively involve all bodies and institutions with the authority and obligation to take care of children from a health, social, educational or some other aspect.

Violation of other rights in the educational institutions

The Ombudsman has again this year visited several elementary and high schools and made immediate and direct contact with children in order to promote the children's rights as stipulated in the Convention on the Rights of a Child and the domestic legislation.

The direct contact with children has confirmed that the majority of children are aware of their rights in the family and in school, but they cannot or do not know how to recognize the violations of their rights, or they have insufficient knowledge on how to protect their right. The lack of awareness of mechanisms for protection of rights means that few of the children can request the protection of their rights at the Ombudsman's office. From the interviews held with children it has been found that the educational system should provide children with the knowledge and skills to recognize their rights and duties, the violations of their rights and abuse by anyone and on any grounds and to have sufficient knowledge on all the possible domestic and international mechanisms for protection, help and care. Furthermore, children have pointed out the need for properly educated and trained personnel so that the children and the youth can learn to respect the human rights and freedoms and the means of using all available mechanisms for the protection of these rights and freedoms.

This report year, the Ombudsman has intervened for the unobstructed fulfillment of the right to mother tongue education. Acting upon these complaints, in order to secure the right to mother tongue education, the Ombudsman has indicated that the constitutionally guaranteed right of every child to follow the education on his/her mother tongue must be respected and this means schools must create opportunities and conditions for the unobstructed fulfillment of this children's right. In some cases, when the school, or the local self-government council has reached decisions on introducing curriculum in the mother tongue of the students, the Ombudsman has requested that the Ministry of Education and Science makes an inquiry and if all legally foreseen conditions are met to grant the curriculum in the mother tongue of the children and to employ proper personnel to realize the curriculum in the tongue of the ethnic community.

In regards to the rights from the education domain, the Ombudsman has intervened in

the enrollment of students in primary schools in cases when students were unable to enroll their children in a school located in the region of residence. Namely, acting upon complaints from parents with a place of residence in a certain municipality, and who were unable to enroll their children in that municipality's schools, the Ombudsman has found that schools beside the legally foreseen documentation have requested other documents, or more precisely an identity card that parents have been residents of the municipality for at least a year, ownership certificate and other evidence that they live in the region of the school. (This was especially seen in the Municipality of Karpos). If the documents are not stipulated in the legislation for enrollment of children in the first grade in schools located outside the child's place of residence, the schools have denied enrollments only because the identity card of the parent was issued less than a year ago, and these actions were regulated by Municipality acts.

Acting upon these complaints, the Ombudsman has addressed the Ministry of Education and Science, The State Education Inspectorate, the Municipality that implemented acts for these rules and the schools the parents wanted to enroll their children in, however the competent bodies did not take any measures to solve this problem.

According to the Ombudsman, the condition of enrollment of a student at a certain school that the child, i.e., parent must use their identity card as proof that they have lived in the region of the school for at least a year, is a clear violation of the legal provisions, and obstructs parents from enrolling their children in the first grade in schools belonging to the municipality they have a permanent residence in.

For the abovementioned problem, the Ombudsman has informed the Minister of Education and Science and has requested that the Ministry takes all the necessary measures to ensure legal and complete implementation of the provisions of the Law on primary education by using all of its authority and competences, in order to ensure unobstructed enrollment of students in the first grade in primary schools located in the municipalities they reside in, in accordance with the provisions stipulated in the law, and without conditioning the enrollment process in the manner done by the Council of the Municipality of Karpos.

However, the Ministry of Education has only called upon the Law on Elementary Education, that the elementary school is obligated to accommodate all students from the region, i.e., the parent has the right to enroll a child in the primary school located in the region of their residence, without giving its opinion on the act which foresees additional conditions for the enrollment process, and which has forced many parents to enroll their children in school located far from their place of residence.

In some cases, the Ombudsman has again this year intervened upon complaints on not covering the costs for student transport in both elementary and high – school education, and has indicated that the Law on elementary and the Law on high – school education must be followed consistently especially in regards to the free character of the education. In cases when the legal conditions have been met, the Ombudsman's indications were accepted and students could enjoy their right to free school transport. There were also complaints referring to the student transport from one city to the next, when no free transport was provided nor were they accommodated in student homes. In these cases, the Ombudsman has intervened so that the government either provides free school transport or to accommodate these children in proper institutions or at to find another form of accommodation at the state's burden.



Sexual abuse

The sexual exploitation of children and all other forms of sexual abuse of children is a serious problem and a threat to the society as a whole and this problem requires continuous effort to find new adequate measures and mechanisms so that the problem does not spread further.

This report year, a small number of complaints were received on this type of child abuse, and in one instance the Ombudsman followed his own initiative and initiated procedures for protection of the rights of a molested individual in the home "25 Maj" – Skopje from another individual as the molester who in the midst of the process has left the home after reaching full age. The Ombudsman has found that the Institution did not follow proper procedures and did not undertake measures to protect the molested individual, did not report the case with the police and did not file a claim against the molester even though there were enough evidence to indicate that he has committed a criminal act two days before reaching his full age.

After the Ombudsman has submitted information on the case, the Ministry of Interior began its inquiries in order to initiate procedures against the individual on the reasonable doubt that a criminal act was committed in the form of sexual abuse of another individual during their stay in the Foster home for children with educational – social problems "25 Maj" – Skopje and has indicated that a special report will be filed to the Primary Public Prosecution for further and additional procedures.

Alongside the work in this domain, the Ombudsman of the Republic of Macedonia has conducted research on the topic: Children – victims of sexual exploitation and pedophilia in the period from January 1st 2008 to June 30th 2011. The purpose of this research was to gather data from all relevant bodies and institutions and to establish the actual state of sexual abuse and sexual exploitation among children in the Republic of Macedonia. In addition, this research was supposed to provide insight into the manner of understanding and perceiving this type of children abuse among the competent bodies, how well the professional individuals who act upon this type of children abuse are trained and equipped with knowledge and skills to recognize sexual exploitation, abuse and exploitation of children, whether and which preventative measures exist for the prevention of this occurrence and the level of their efficiency, how and if measures need to be taken for the rehabilitation and the protection of children who are victims of this abuse. The research was conducted on national level and is based on data, measures and recommendations of all competent bodies (all competent courts, public prosecutions, social service centers, police bodies and non – governmental institutions) in every region of the Republic of Macedonia. The data from the conducted research can be seen on the Ombudsman's web page.

Openness of bodies and organizations to the Ombudsman in regard to children's rights

The Department for protection of rights of children and rights of persons with special needs considers that the timely reactions by the competent bodies in regards to protection of the rights is of the highest importance, and the reason is the prevention of resulting violation or infringement of the rights because their consequences can be long – lasting. That is why the bodies and organization in charge of children and individuals with special care must cooperate with each other. In the majority of cases the cooperation is at a satisfactory level, but there are still cases when the necessary procedures and actions for protection of children's rights are undertaken quite late. Only by efficient and timely actions, the violations of the rights will be reduced to a minimum, and the best interest of the children will become the basis and priority when it comes to the actions of competent bodies and institutions.

Findings

Children belong to risk groups are the usual victims of abuse and violence.

Lack of education of children on their rights and duties so that they can gain the proper skills to recognize the violations of their rights. No progress has been made when it comes to the involvement of children in the decision –making process on issues affecting them directly.

Lack of treatment in the long run and an individual approach toward every individual/child who abuses narcotics.

Children with special needs have difficulty fulfilling their right to education in regular classes (inclusive education) and the reason for this among other things is the small number of defectologists in school or the pressures put forth by parents of other children who do not have special needs.

Persons with special needs are yet to enjoy their full right to employment in the Protected Trading Companies, as well as in the public and state administration.

Recommendations

Competent bodies to undertake all possible measures for help and protection, especially preventative measures so that the number of children at risk will be reduced and so that these children are not exposed to any type of abuse, manipulations and violence, within the family or at schools.

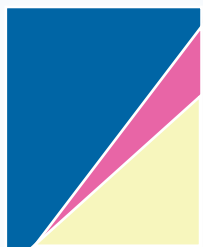
A special subject needs to be introduced at all educational levels so children are educated on their rights and duties, as well as on the mechanisms for protection of their rights and to enable their participation in the decision – making process related to their rights and duties.

All institutions, services and departments responsible for taking care and protecting children should have unanimous standards, especially in the safety and health domain, so that children can be offered special protection and care and to ensure their overall welfare.

The state must develop a special strategy and measures for proper treatment of children that will differ from the treatment given to adults, as well as to find possibilities to accommodate children in special institutions for healing and treatment.

School should provide conditions for unobstructed education of children with special needs in the regular classes and employ a sufficient number of defectologists to work with these children without any discrimination and prejudice so that the right to an education can be exercised equally by all children.

To undertake measure for raising public awareness on individuals with disabilities and to overcome all stereotypes and prejudices when it comes to the fulfillment of the right to employment of these individuals in Protected Trading Companies. At the same time, to create employment opportunities, i.e., to increase the number of employed individuals with disability in the public administration and the open society and to review the so – called mandatory percentage /"quota" employment of individuals with disability following the example of several countries from Western Europe.



EDUCATION

The problems citizens face in the domain of higher education have remained the same as before, and again this report year, the Ombudsman has received numerous complaints requesting protection of the rights from this domain. The majority of complaints related to the fulfillment of the right to university scholarships, as well as delays in the procedures of nostrification of diplomas, i.e., equalizing and recognizing diplomas issued by foreign university institutions. In addition, a small portion of complaints related to the enrollment in the first cycle of studies, and especially the payment of these studies, i.e., exemption from the tuition fee etc. Furthermore, there were also complaints related to the inappropriate relationship of the teaching staff with students or other procedures and conditions for receiving academic, scientific or some other title.

Acting upon the complaints referring to the procedures on awarding university scholarships, the Ombudsman has found that unlike previous year, the competent bodies and commissions have acted in a more timely manner and responded to all appeals and objections submitted by students, and the most common reason for appeal was the denial of the request to fulfill the mentioned right. In the majority of cases, the Ombudsman did not find a violation of the student/s rights, i.e., the rejected candidates failed to meet all the criteria stated in the official Announcement.

In terms of complaints related to the sending duly notice prior to filing claims for reimbursement of funds from a user of a scholarship at the Ministry of Education and Science when the individual in question has not completed his studies on time, the Ombudsman has found that this is a matter of fulfilling a right based on an agreement between the competent ministry, and the rights and obligations between the user and provider of the scholarship are stipulated in the agreement which represents an obligation relation. In this case, the party was notified that if the obligations to the other party are not fulfilled the party that violated the contract regulations will bear the consequences stipulated in the agreement, and in case of a claim the decision is made by the competent court.

The Ombudsman, acting upon complaints referring to the recognition of a high level academic qualification gained abroad, has found that the procedures are frequently delayed, which limits other rights of citizens. In some cases, the Commission for Recognition of Foreign Degrees at the Ministry of Education, instead of acting upon the second instance decision in the legally stated timeframe, has delayed the procedure requesting the individual to submit additional documents, but even after these documents were submitted the procedure continued to be delayed without any legal or other reasons. The majority of the Ombudsman's interventions have ended with positive results and a decision was issued to recognize the academic qualification from a foreign academic institution.

In terms of recognizing a foreign academic qualification, a problem arose for a large number of citizens that have gained high level academic education in the Republic of Kosovo, and wanted to continue their second or third cycle university education in the Republic of Macedonia, and this problem was due to the fact that the Republic of Kosovo is not a signee of the Hague Convention, which means it cannot provide the apostille-seal of the original foreign academic qualification. The Ombudsman has intervened with the Ministry of Education and Science to find

the proper solution and to overcome the problem and provide the unobstructed fulfillment of the right to the second and third cycle of university and the availability of high level education for the Macedonian and foreign citizens at the academic institutions in the Republic of Macedonia. The Ministry of Education and Science along with the Ministry of Education, Science and Technology of the Republic of Kosovo, in order to find a solution for the problem have formed work groups that have accepted the proposal that the academic qualifications gained in the Republic of Kosovo are legalized in the Republic of Macedonia based on a "chain system", i.e., beside the seal issued by the academic institution, to provide a seal of the Ministry of Education, Science and Technology at the Republic of Kosovo, a seal from the Ministry of Exterior of the Republic of Kosovo and seal from the Diplomatic Consular Representation of the Republic of Macedonia in Kosovo, so that the individuals who have completed their first or second cycle studies in Kosovo can fulfill their right to third cycle university education in the Republic of Macedonia.

Just as the previous year, the Ombudsman has again received complaints on the enrollment process in the Military Academy "General Mihajlo Apostolski" – Skopje, and the complainants believed that their rights have been violated by the Admission Commission for selecting students in the first year of studies. Upon the taken measures, the Ombudsman has found that the Admission Commission has provided equal opportunities for all candidates that applied and fulfilled the admission requirement, and as a result the Commission was prepared to prepare and publish a rank list for the first, second and third enrollment period. The selection of candidates from this rank list was done by the Minister of Defense, and attention was paid to allow adequate and equitable representation of all ethnic communities, so the Ombudsman did not find basis for further investigation.

During this period, the Ombudsman has received a complaint asking him to file a request for the authentic interpretation of Article 134 from the Law on Higher Education and the amendments made to this law in relation to this article from august 2010, because the basic text of the Law on Higher Education stipulated that the attending professor after the first choice, established a regular labor relation on an indefinite time period and keeps the title for life. With the changes made of the stated article, after the first choice of the attending professor there is an opportunity to make another title choice so that the attending profession enters in indefinite labor relations and keeps the title of attending professor, i.e., professor for life. After the procedure, the changes of the Law on Higher Education entered into force on September 2010 before announcing the First Call for title selection by the complainant. The Ombudsman has informed the complainant that the Ombudsman is one of the subjects that can request the authentic interpretation of the laws, but only if the need for the authentic interpretation has arisen from the application of the laws referring to his competence. In this case, the Ombudsman did not see the need for such a thing, since the title selection process followed the valid Law on Higher Education, i.e., has entered into force prior to the announcement of the Call.

In terms of fulfilling other rights and the academic institutions, the Ombudsman's interventions have enabled a student to fulfill his right to withdraw from the faculty and to reclaim his documents without covering the incurrent tuition fees for the next semester, as indebted by the university.

The Ombudsman has found that the competent bodies have different attitudes when it comes to issuing diplomas on completed first cycle of studies from one of the private universities, because the Ministry of Education did not allow for the diploma to be issued even though the student has completed his first cycle of university education. The reason for this is the finding of the Ministry that the student has earned his high – school education at the Islamic institution "Isa Beg Medresa", which according to the State Educational Inspectorate has not been verified by the Ministry of Education and Science and no student of this institution can enroll in a university level institution, nor receive a diploma on completed studies. The University has addressed the Ministry of Education and Science requesting explanation on the status of students with high school education from a high school Islamic school, i.e., has requested a response on whether these students have the right after finishing high – school to continue their education at the university institutions in the Republic of Macedonia. The Ministry of Education and Science has referred the University to the Commission on relations with religious communities, and the Commission in turn has called upon article 22, point 2 from the Law on the legal position of a church, religious community and religious group and formed the opinion that all the religious educational

institutions have the same right as all other educational institutions and their students and pupils should enjoy the same rights and obligations as other students as well. In addition, the Commission submitted its opinion to the University and to the Ministry of Education and Science, so that the problem can be solved, especially since the supplicant has already completed his studies, and yet is unable to receive a diploma for his university qualification.

With this response in mind, as well as the notification received from the Ministry of Education and Science that religious institutions have equal statue as other educational institutions and that their students and pupils have the same rights and obligations, the Ombudsman has requested an explanation for the exclusion of students that have completed high – school Islamic education from enrolling in university institutions. The Ombudsman has also requested information whether the education received at “Isa Beg Medresa” is verified by the Ministry of Education and Science and whether this religious educational institutions hold a permit to operate as an educational institution. The procedure on this subject is still in progress.

Although the number of complaints from this domain is not large, according to the Ombudsman the majority of complaints were solved only after several interventions, which again confirms the finding that the collaboration with this Ministry and the bodies it contains needs to be improved. This is necessary so that the Ombudsman’s requests can be followed in a timely manner and the delivery of timely responses will in turn lead to more efficient and legal procedures and will not obstruct the fulfillment of the citizens’ rights.

Findings

Procedures on decision – making upon student’s requests are still being delayed and cause problems with the fulfillment of students’ rights.

Frequently the Faculties at certain Universities do not apply the provisions of the Law on Higher Education in full related to the exemption of students from tuition fees.

Although called student services, the services within the academic institutions and the Ministry of Education and Science do not always provide the adequate service to students.

Recommendations

Consistent respect of legal time-frames on decision – making in order to provide unobstructed fulfillment of the students’ rights at the Faculties and the bodies of the Ministry of Education and Science.

Full and adequate implementation of the Law on Higher Education and relevant bylaws when deciding upon students’ rights and obligations.

Enhancement of the cooperation between students and services, i.e., bodies in the academic institutions and the competent Ministry.



CONSUMERS' RIGHTS

This report year was characterized by the enormously increased number of complaints from citizens requesting the protection of their consumer's rights in relations to legal subjects providing services of public interests and based on the fact that the rights from this domain are violated in multiple instances.

The majority of complaints received by the Ombudsman were related to protection in regards to the heating supply, but a large number of complaints also referred to the consumption of electricity, the public communal enterprises, telephone services and the payment of the broadcasting tax.

The increased number of complaints mostly referred to the work of enterprises providing heating energy. The citizens were again faced with the already well-known problems with the calculation of the consumed heating supply through a single gauge for all tenants, because the implementation of individual gauges has yet to be realized, although the Ombudsman has indicated on several occasions to the need of each tenant to have their own gauge.

Furthermore, the repeated increase of the price of heating supply has reflected in the number of complaints, as well as the calculation method of the heating supply fee, because the citizens again complained on unreal and erroneous calculation, as well as drastically different calculations for the same heating surface. The substandard service or the insufficiently heated apartments were again the subject of many complaints. However, the disappointment citizens feel towards the suppliers of heating energy was especially emphasized during the preparation period of the new Rules for heating supply and culminated when these rules came into force.

Estimating the outcome of the regulations stipulated in this bylaw, in order to provide a more efficient protection with higher quality, the Ombudsman has acted upon cases formed on his own initiative besides acting upon the complaints received from citizens. The Ombudsman has first and foremost noticed the problem of unobstructed disconnection from the distribution system.

Namely, the Ombudsman intervened upon the citizens' requests in regard to the violated right of the consumers to disconnect themselves from the heating supply system due to the preparation of the new rules. Acting upon these complaints, the Ombudsman has indicated the suppliers that they must act in accordance with the existing legislation since any other behavior is unacceptable and causes the citizens harm and is against the regulations contained in the document being prepared by the Regulatory Energy Commission. In this context, it should be mentioned that the Ombudsman has followed the course of preparation of the new rules, and has from the very beginning indicated the possible problems if actions are not taken in time and in the foreseen conditions for the procedures and the means of disconnecting from the distribution



system. This is based on the fact that the rules foresaw disconnection in additional circumstances from citizens who want to be disconnected from the system, i.e., the collective agreement of all tenants to be disconnected from the system, as well as the obligation of the disconnected consumers to pay a fee for the used heating supply (fixed portion).

In order to protect the consumers' right of citizens, the Ombudsman has, during these activities, indicated the need to respect the citizens' right to free choice since the limitation of the rights and the free choices of citizens is a violation of the Constitution of the Republic of Macedonia.

During the preparation of this normative act, the Ombudsman has indicated the need for the Rules for heating supply as a bylaw to follow the regulations of the Law on Energy, since the rights and obligations are precisely determined with a law, and not with a bylaw, as well as the fact that only with entering into agreements the users and the suppliers are bound by obligation relation and this can be achieved only with the free will of both parties.

In relation to the obligation to pay the fixed amount, as established with the new rules, the Ombudsman has expressed his disagreement, because living in a condominium building cannot be the sole basis for payment of the fixed amount, which means that the citizens cannot be treated as disconnected users only because they own an apartment in a condominium building, or the fact that the payment of the heating supply is not a public expense and must not be used as such to indebt citizens with this type of fee regardless of them having or not the same heating and water installation, i.e., regardless of them being or not actual users of the service. Furthermore, the Ombudsman finds the obligation of all tenants to agree to disconnect rather conflicting, since this obligation can lead to the detriment of neighborly relations within the condominium object.

Upon entering into force, the Rules on heating supply contributed to the intensity of citizens' disappointment, so the Ombudsman has submitted information to the Regulatory Energy Commission on all conditions found in the field and reflected in the citizens' complaints.

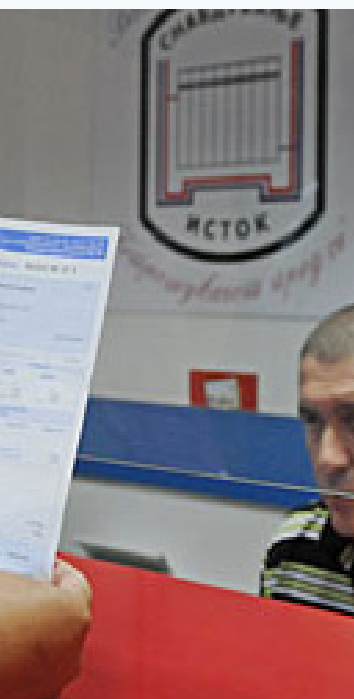
In order to overcome this problem, the Ombudsman has indicated the regulator that it would be useful to take intervention measures upon the existing rules, i.e., to determine the different field conditions in a normative manner since the intervention is requested by citizens who have never used this type of service and have never had any type of installation of this kind in their apartments.

The reaction of the Energy Regulatory Commission was not expected, since according to the regulator the rules did not predict a difference among users of the system and the apartment owners who do not use the system but are part of the condominium object. According to the regulator even the disconnected consumers are classified as users of a portion of the heating supply delivered to the connected users, which is the reason why they are obligated to pay part of the compensation for heating supply calculated from the used power.

When the citizens' problems are discussed, the reaction of citizens upon receiving the invoice for the fixed amount should be emphasized. The citizens' dissatisfaction can be evidently seen in the large number of submitted complaints with a single question: Why should we pay for a service we do not use?

The citizens, beside the expressed dissatisfaction with the imposed obligation to pay the fixed amount, have expressed their dissatisfaction on the calculation method of this expense, which according to the citizens is different for apartments with the same heating surface, depending on which supplier has made the calculations.

In order to overcome this problem, the Ombudsman has again addressed the Energy Regulatory Commission and indicated the inexcusable unequal treatment citizens receive, i.e., the different amounts they receive due to the calculation being made by different suppliers, in conditions when the regulator on the basis of the same regulation decides upon this compensation. The Energy Regulatory Commission has explained the calculation method for the fixed amount as a compensation for heating supply. According to the regulator, the difference in the calcula-



tions is due to the used power in the objects, i.e., measured locations and it was closely related to the thermal characteristics of the objects, heating days during the month, as well as the active consumption of the objects themselves.

Beside the submitted indications and information, the condition has remained unchanged and at present the disputable Rules for heating supply are part of the active regulations from this domain and indebt citizens, which means the decision of the Constitutional Court of the Republic of Macedonia, which received the procedure on establishing the validity and legality of this regulations, is going to be of vital importance.

During the report period, citizens complained on the work and services provided by public communal enterprises who perform communal services by supplying water and dispose of urban waste. Complaints again referred to the high and unreal prices for consumed water, faulty water meters and irregular readings, as well as lump-sum indebting.

In those complaints the Ombudsman has found violations of the citizens' rights, and in majority of cases his interventions were respected and resulted in solving the disputable conditions. The Ombudsman's indication in regards to finding a favorable means for debt payment was respected and the debt could be paid in installments. However, during the last quarter of this report period several citizens received notices for unpaid debt from the public enterprises.

The Ombudsman has found irregularities concerning the data on the period when the debt incurred, because these cases must follow the provisions of the Law on Obligation Relations which regulates when the debt becomes obsolete in regards to the delivered water and the services for disposal of waste.

In order to solve this problem, the Ombudsman has acted upon individually submitted complaints, but has also made direct insight upon the requests to define a precise amount of the debts, but only on those debts that have not become obsolete, because when a claim has not been filed upon obsolete debts, the debts in question should not be registered because there is no legal basis to seek forced payment.

This report year, a small number of complaints were received referring to the services citizens receive from the fixed telephone line and mobile telephone providers. Dissatisfaction is present once more in relation to the quality of the service but complaints also referred to the high and unreal bills. Furthermore, the complaints indicate that the trend of imposing conditions on certain providers upon entering into agreements is increasing, just like the conditions for fulfillment of provided services and their quality, especially the usage of Internet services. In these cases, the Ombudsman has found violations of citizens' rights and intervened with the corresponding providers and asked for immediate actions to be taken by the Agency for Electronic Communications.

The Ombudsman was addressed by several revolted citizens from receiving multiple bills for payment of the broadcasting tax, i.e., receiving bills for two or more adult members in the same household.

Based on the provisions in the Law on Broadcasting which stipulated that the broadcasting tax is to be paid by every household in the Republic of Macedonia, and not by the individual members in the household, the Ombudsman has indicated to the Macedonian Radio Television that they have the right to receive payments on the broadcasting tax but this payment must be made in accordance with the Law. The Ombudsman has also acted upon complaints that despite being exempt from payment of this tax on legal basis, they were still indebted to pay the broadcasting tax.

Acting upon the submitted indication, the Macedonian Radio Television has informed the Ombudsman that the delivery of double bills for a single household, the act of indebting the persons exempt from payment and so forth, are problems due to certain technical errors and were made during the update procedure of the database. With the error being found, the bills for payment of the broadcasting tax were annulled and measures were taken to correct the database.

The complaints on the energy supply were also acted upon the Ombudsman, in order to achieve a more efficient and effective protection of the citizens as consumers of electricity and to gain a clear insight in the actual condition so that a proper solution can be found to fulfill the

consumers' rights. The Ombudsman along the written communication with "EVN – Makedonija" AD – Skopje continued to perform direct inspections and contacts with the officials in individual cases.



Same as last year, the majority of complaints referred to the protection of citizens' rights who were charged with unauthorized usage of electricity and as a result were disconnected from the distribution network. In this context, the "EVN – Makedonija" AD – Skopje teams, usually without the presence of the users, have found unauthorized usage of electricity and the citizens are unable to prove the opposite since they usually do not initiate court procedures, so in accordance with the Rules on the Electricity Distribution Network and the rules for energy supply for tariff consumers, the operator of the distribution system and the distributor confirm the unauthorized

usage of electricity, perform the appropriate calculations, and the consumer is obligated to pay the compensation for the unauthorized consumption of electricity to the distributor within 8 days of the delivery of the calculation.

A large number of complaints referred to the disconnection of citizens from the electricity distribution network due to unpaid bills for consumed electricity and the Ombudsman has found that the actions taken were in accordance with the general conditions for energy supply, which indicate that the supplier is allowed to terminate the energy supply if the incurred debt is not paid in a month time. It should also be noted that there has been a large number of complaints referring to the consumers' requests to allow them the payment of debt in installments. With the economic and social condition of citizens in mind, the Ombudsman has indicated this possibility but his requests were denied with the explanation that "EVN Makedonija" constantly organized campaigns so that citizens can find the most suitable methods of payment for their debts in regards to the consumed electricity.

A significant number of complaints referred to the payment of taxes for street lighting in inhabited places even though these places do not have a street lighting system installed and some complaints referred to the poor maintenance of the street lighting. The Ombudsman has indicated the municipalities for which the distributors request payment that the consumers do not use this service and should therefore be exempt from payment in accordance with the Law on communal taxes, but the municipalities failed to respond to the Ombudsman's requests.

A special condition exists within the owners' community in condominium objects who have been indebted for each gauge in the common facilities inside the building which is a direct violation of the legal status of these communities as non – profit organization. Upon the submitted written information by the Ombudsman addressed to the Administrative Board of "EVN Makedonija" AD – Skopje, and the Local self-government units in the Republic of Macedonia, it can proudly be said that proper initiatives were taken against "EVN Makedonija" by the competent state institutions (ZELS and the Ministry of Transport and Communications) to review the legislature and bylaws which regulate the payment of the communal tax for public lighting.

Several complaints referred to the amount of the so – called used/active power of 33%, which citizens are obligated to pay according to the estimation of the price for electricity supply since these 33% increase the price of electricity. In this context, the Ombudsman has informed citizens that the stipulated compensation for used power is regulated with legal regulations for establishing the electricity price and with the Tariff system for sale of electricity of tariff consumers and the decisions of the Energy Regulatory Commission and that the Ombudsman does not have a legal basis to intervene for citizens to be exempt from this portion in the price of electricity.

The same goes for the determination of the prices for electricity during high and low daily charges (so – called expensive and cheap energy) which belongs in the exclusive competence of the Energy Regulatory Commission of the Republic of Macedonia and the established Tariff System for sale of electricity on her behalf as an expert body selected by the Parliament of the Republic of Macedonia.

Findings

As witnessed, this report year has continued to be characterized by the problems of citizens in relations to their consumers' rights for public services which have resulted in the increase of the number of complaints.

The violation of consumers' rights is closely related to the fulfillment of the basic human rights, so the reaction of citizens in regards to poor service, unreal indebteding, and final indebteding for an unused service is fully expected.

The right to free choice and the citizens' freely expressed will is not respected when it comes to their consumers' rights and these are connected to the heating supply although the rights are foreseen in the Constitution of the Republic of Macedonia.

Quality legal decisions and bylaws are lacking especially in the legislation related to the heating supply, and the citizens are obligated with provisions from bylaws, although the rights and obligations should be determined by a law, and not a bylaw, including cases of regulating questions of heating supply.

Lack of market liberalization or the inexistence of a satisfactory level of liberalization at the market of public products and services represents an obstacle in the competitive work, and this is closely linked to the quality of services provided to citizens.

The Ombudsman found that "EVN Makedonija" AD-Skopje has acted inappropriately while confirming the fact of unauthorized usage of electricity since in practice its officials have read the gauges without the presence of the consumers, their alteration or other technical interventions.

"EVN Makedonija" has not informed a large number of citizens that claims have been filed against them for forced payment of unpaid debt for consumed

Recommendation

Legal normative needs to be established so that citizens can enjoy their rights, with consistent respect of the principle of market economy and the right to a free choice of consumers as users of certain services.

The efforts for liberalization of the market need to intensify especially in the sphere of heating supply which will enable competence for the quality service.

The citizens' rights to be respected consistently as consumers by the service providers, which means that the providers should not use their monopoly position and impose conditions for the fulfillment of their own goals on the expense of the citizens as users of those services.

The activities to upgrade the infrastructure and the personnel capacity of "EVN Makedonija" as a distributor of the operating system which services the citizens as consumers of electricity on a daily basis need to be expedited.

The Law on Communal taxes need to be changed so the owners' communities in condominium buildings are exempt from paying the tax for usage and maintenance of public lighting, considering that this tax should be paid by each individual owner in the community as individual consumer of the electricity.

Changes of the Energy law need to be made for the liberalization of the opportunity of citizens as consumers to choose their own operator of the distribution system of electricity by following the example of the electronic communications.

electricity, so later on in the court and executive procedure this debt is multiplied so the negative consequences fall upon citizens as consumers.

The problem of multifold payment of communal taxes for public lighting continues, including those citizens who are exempt from this tax in accordance with the Law on Communal taxes, so citizens as individual users pay for the service they do not receive illegally.



OTHER RIGHTS

The Ombudsman, during this report year, has acted upon complaints related to violations of the rights of citizens from other legal domains.

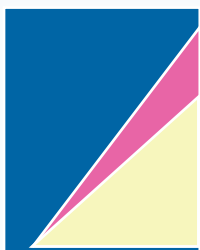
Based on the contents of these complaints, a significant portion referred to the lack of activities taken by the bodies of state administration and other bodies and organizations with public mandate upon the requests submitted by the complainants, i.e., lack of timely response to requests.

In order to protect the right to a response for submitted requests, the Ombudsman has acted upon these complaints and indicated to competent bodies on their obligation to respond.

A certain number of complaints from this domain referred solely to the aspect of receiving legal aid, i.e., citizens sought the Ombudsman's advice on the manner of protection of their rights and the mechanisms through which they can act in front of competent bodies.

Acting upon these complaints, the Ombudsman has always delivered timely responses to all complainants and has given advice on the method and mechanisms of protection of their rights.

Furthermore, this Institution was addressed by legal entities as well requesting the Ombudsman to provide legal protection in front of bodies within the Ombudsman's competence, as well as requests from citizens on subjects the Ombudsman has no competence over.



LOCAL SELF - GOVERNMENT

The citizens' right to participate in the execution of public issues is one of the most basic democratic principles and can be directly fulfilled on a local level where the local authorities have the opportunity for a closer collaboration with the citizens and their organization and to work on issues which directly affect their lives. A key question for democracy today is the participation of citizens in the process of successful decision – making in the local community and the unobstructed fulfillment, enjoyment and protection of their rights by the local authorities. The activities and involvement of citizens in the local community is the cornerstone of social life.

In the Republic of Macedonia there is still a practice of passive behavior when it comes to the participation of citizens on local level. Although the Ombudsman feels that on annual basis the citizens become more and more aware of their rights and of the obligation of the bodies of local authority to fulfill their rights, a large number of citizens are still refrained from comment or from taking actions in regards to the shortcoming, inadequate, untimely and poor quality of public services, and the disrespect of their constitutional and legal rights. Citizens do not participate in the development and definition of public policy, at least not in sufficient numbers. It is still uncommon practice for local authorities to consult or to involve citizens in the creation of policies. The Ombudsman welcomes the activity of some municipalities where the local authorities cooperate with non – governmental organizations and the international community, and frequently encourage citizens to participate in the creation of policy, in setting the priorities and in creating solutions of everyday problems. The Ombudsman points out that the representatives of the local self-government in the Republic of Macedonia must be leaders of promoting citizen participation. The mayors and their associates have to express their determination to encourage citizen participation in a clear, honest and frequent manner. The participation of citizens in life and creating policies of local self-government is the only way for them to be involved in the decision – making process, to help create a transparent local self – government which will ultimately lead to the improvement of public services.

Local self – governments, even after 7 years from the beginning of the decentralization process, are still faced with financial problems, their dependence on central authority when it comes to financial support in domains they have been active in for years back (especially education), with technical and personnel problems, i.e., with incomplete decentralization, which certainly creates management problems. This clearly indicates that decentralization and the reform of the local self – government is an ongoing process and so the Ombudsman emphasizes the need to expedite these reforms.

The local self – government in the Republic of Macedonia must strive to function better, to be more active and more efficient, because modern local self – government of European type requires skills and competent governance of municipalities. The responsibility of all subject involved in the active life of the local community is a large one. Only an organized, active and participative public will lead to the successful implementation of the decentralization process in the local self – government, and this guarantees the existence of democracy in the place where the human lives and works – Local self-government units in the Republic of Macedonia.

The Ombudsman, acting upon submitted complaints and on the findings received from the Work program in 2012, will present the findings on the level of fulfillment of the citizens' rights

in regards to local self-government unit reviewing each separate domain in the competence of the local self-government.

Urban planning and construction

Spatial and urban planning is a continuous process which is enabled by preparing, issuing and implementing a spatial plan and urban plans in order to procure the arrangement and humanization of space as well as the protection and promotion of the environment and nature.

The arrangement of space through issuing general and detailed urban plans belongs in the competence of local authorities. Although the general urban plans usually regulate and plan the space on the territory of a certain municipality, on the basis of which additional detailed urban plans are issued, citizens show a larger interest in and greater attention is paid to detailed urban plans so complaints from this report year are solely referred to this aspect.

Local authorities usually fulfill what they have planned on their own and do not pay attention to the requests and comments made by citizens, which obstructs the right to impose their own influence on the urban – architectural solutions for the space they live in. Citizens begin to pay more and more attention on the quality of the decisions issued by the local self – government in this respect, and they become more aware of their right to influence the decision – making process, to have their opinions respects and to take their needs into considerations on topic which affect their daily lives, and this has altogether influences the increase in the number of submitted complaints.

In the complaints, citizens react and point out the disrespect of their opinions in the issuance of plans, which according to them is a violation of the peaceful ruling with their own property, infringes the right to live in a healthy environment, especially when the detailed urban plans of the local authorities instead of creating green space have plans to build multi-story buildings, business premises, gas stations, and multi-story or underground garages. There are also complaints when citizens themselves invest changes and amendments to the detailed urban plans in order to improve the quality of the space their live in, or to gain unobstructed access to the real – estate that has been in their ownership for years, but these initiated procedures are usually ignored by local authorities and even after several years decisions are not made, or the request for changes in the plan is denied because it would violate the concept of the already made plans by the local authorities. Thus the most common insight gained in this domain is the disregard of local authorities of the civil participation in the decision – making process of issues which directly affect them.

This year as well, the participating body of the municipality, with the authority to transmit attitudes, opinions and the needs of citizens during this process, and includes members as citizens from the municipality, outsourced experts from the area and representatives of citizen association, did not fulfill its function. Beside the citizen members of this body and the expert public, citizens are not aware of the existence and the competence of this participating body, and the local authorities do not have the interest to promote and present its competence in front of the general public. This body rarely holds meetings, usually on issues of buildings of public interests, but these meetings also have the declarative purpose of solely providing transparency and the involvement of citizens.

The citizens again react that certain aspects of the detailed urban plan are not realized, especially those that are not altered for a long period of time, although according to the law these plans should be subject of revision every 5 years from the day of their adoption. The inexistence of a decisive legal provision on the duration of validity of the urban plan that does not suffer from changes even after several revisions, and obstructs the right of the citizens to freely manage his own property in the case then the plan foresees the removal of his real – estate. In this manner even after 5, 10, 15 years, this citizen although having the undisputed ownership of that property cannot handle it freely, i.e., he cannot renovate, adapt or sell it. If the plans are not realized, some citizens have obstructed right to peaceful management of their own property because no

temporary or other object have been removed for years back as foreseen by the plan, no streets are build and this usually makes their homes inaccessible.

The Ombudsman feels that the local authorities need to take immediate actions to educate citizens on the validity and the influence of a professionally well planned and realized urban plan, which will encourage their active participation and the local authorities will be disabled from placing the individual or commercial interest in the front row and will always be guided by and place priority on the public interest.

In relation to the construction domain – this report year citizens mostly reacted to the delay or the legality of handling legalization procedures on illegally built constructions, on the problem of removal of illegally built constructions, the disrespect of legal timeframes to issue building permits or location conditions, to the lack of activities or unprofessional behavior of inspections made by building inspectors.

Acting upon the complaints on the legalization of illegally built constructions, the Ombudsman has succeeded in expediting the procedures and securing the citizens' rights who have been victims of selective application of the Law by the local authorities. The Ombudsman has paid special attention and has continued to monitor this process, requesting local authorities to take measures and secure adequate personnel and other necessary conditions for the effective operation and to ensure that it will use measures in accordance with its competence and apply this law so that every citizen of our state can enjoy his rights without discrimination. Cases when the municipality could not finish the procedures only because the citizens were unable to pay the established compensation of the municipality bill due to blocked municipality account are unacceptable as a basis to obstruct the citizens' rights provided by the Law and these problems must be solved.

In relation to the citizens' requests for executing the decision to remove illegally built constructions, the Ombudsman has indicated that the Law has to be followed to the letter and has convinced citizens that the illegally built constructions which do not fit with the urban plans will be removed by the local authority.

There were also cases when citizens pointed out illegally built constructions, which did not belong in the scope of legalization, but they still have not been removed. Urban police or the executive units of the municipalities have continued to give their well-known excuse for not handling this problem – lack of legal entity, chosen by the Municipality which would execute these acts on behalf of the illegal constructor. But yet they have discarded all other authorizations at their disposal consciously, for example the filing of a claim against the illegal constructor. This resulted in unjustified delay of the execution procedure and left room for the constructor to continue with the illegal construction. The Ombudsman has indicated to competent bodies their obligation to respect and apply the Law on Construction and that the removal of illegally built constructions contributed to the protection of citizens' rights in the domain of urban and spatial planning and ensures their lifestyle in an urban environment.

The Ombudsman has once more emphasized the need for the municipality administration to initiate timely procedures for the election of a legal entity which will execute the issued administrative acts for removal of illegally built constructions, so that this does not pose an obstacle in the full implementation of issued acts and an obstruction of the citizens' rights.

On the other hand, in several cases, the Ombudsman has protected the rights of citizens so that their illegally built constructions are not removed – additional facilities with an ongoing legalization process. The Ombudsman has required temporary delay of the administrative acts until the completion of the procedure to establish the legal status of the additional facilities and the procedure upon the appeal of the solution to remove the construction. He has indicated that the premature removal of the objects can lead to impossible to compensate material damage, in case the premises are legalized.

Due to these situations, the Ombudsman continues to point out that this kind of behavior by the local authorities is inexcusable and causes legal insecurity among citizens and doubts whether the law is selectively applied.

In relation to the complaints referring to the delays of procedures on issuing building per-



mits, the Ombudsman has again this year found disrespect of the legal timeframes by the municipality administrations. The Ombudsman has also received a complaint by a citizen indicating that in 2008 he has submitted a request for building permit and all the proper fees were paid as well as the compensation for arrangement of building land, but even after 4 years no administrative acts were issued. This late handling procedures by the municipality administration is inexcusable, unprofessional and the Ombudsman feels it is high time to eliminate these kinds of problems once and for all. Furthermore, it has been found that certain municipalities are issued building permits without investigating the full communal infrastructure, although the corresponding fees have been paid in full, as this was a prerequisite for receiving the building permit.

This year as well, the competent building inspectors did not act upon the submitted requests by citizens in relation to illegally built constructions. This year it has been noticed that there is an improvement in the cooperation between the Ombudsman and the inspectors and they almost always acted upon the Ombudsman's requests for performing inspection control. This late and unprofessional behavior and actions has frequently resulted in allowing the constructor to finish the illegally built construction. Having this reality in mind, the Ombudsman

has again pointed out the need for the inspection units to be strengthened and to enhance the personnel and material resources so that the inspection bodies can be actually present on the field, to perform control inspection and to intervene when necessary so that the preventative activity of the inspection units is enhanced and will prevent future illegally built constructions.

The positive finding of the Ombudsman is that this year again the communication has improved between the Ombudsman and the local bodies of this domain. Local authorities not only have a large percentage of responses upon the Ombudsman's requests but they have also begun to respond to a larger number of citizen's complaints. The Ombudsman will continue to undertake collaborative measures with the local bodies, especially with the aim that inspection services are upgraded in respect to quality and in order for them to realize that their professional duty is to act in accordance with the law, unselectively, without discrimination and in the exclusive interest of citizens.



Education

Education is a fundamental human right. It enables children, the youth and adults to develop critical thinking skills, to make choices and to improve their lives. Education breaks the closed circle of poverty and represents a key element in the economic and social development.

The improvements made to the quality of the educational process on all levels are aimed to use the educational policy and provide opportunities for gaining a proper educational level for each citizen and all age groups and to ensure that they possess the skills, knowledge and attitudes required by society and the labor market.

The decentralization process in the education included redistribution of the responsibility over the main educational issues on all three level in the educational system and this process has now reached a point when municipalities have the competence and authorization to select school managers, to have a strong role in the school boards, and to regulate the maintenance of school property and organize student transport. These competences are financed by the Budget of the Republic of Macedonia. The Budget of the Republic of Macedonia for 2012 foresees the funds needed for all municipalities through block subsidies, and these include payment of salaries for the school employees, the ongoing maintenance of school property and the student transport.

This report year, the Ombudsman has again found a problem with the amount determined by block subsidies because they are not sufficient to ensure the normal operations of the Municipality in the education domain. After the salaries of the school employees are paid, there are not enough funds left to provide free student transport or funds to procure heating in the schools. With this lack of funds which are fundamentally important for the normal operation of the educational process, a small number of schools succeed in using the local budget and to make up for the insufficient funds but a large number of school have already begun their new school year 2012/2013 with frozen bank accounts, disconnected from the electricity supply, disconnected



from the water supply and with debts piling up. As a result, even though we live in the 21st century a large number of students in our country (especially those living in the outskirts) are unable to attend classes, and sometimes even the school itself cancels winter classes because there is no heating in the schools, and all of this flagrantly violates the students' right to an unobstructed education and continuous school attendance.

The Ombudsman has been pointing out this problem for several years now, with his Annual Reports and has requested that the state stops ignoring this bitter problem and to provide the local authority with adequate financial assets in accordance with their actual needs. The Ombudsman finds it unacceptable that the decentralization process in this domain has come down to re-distribution of competences

and authorities in selecting school managers and the involvement of the local authority in the school boards, which under no circumstances contributes to the progress of the decentralization process in the education domain. In this report, the Ombudsman again points out the need for a competent body from the Municipality to reach a decision on the norms and criteria for distribution of the funds from block subsidies among the schools on the Municipality's territory. It is emphasized once more, that this is a method which will provide predictability, objectivity and transparency in the distribution of funds for schools. The Ombudsman's opinion is that local authorities rarely, unsystematically and inconsistently perform financial analysis of the school needs, and they do not prepare reports and plans for rationalization of expenditures, which certainly contributes to this situation.

The Ombudsman welcomes the efforts made by the central authority in the education by equipping schools with computer technology, by building sport centers, but also indicates that both central and local authorities must find an urgent solution for the present condition related to the insufficient financial assets which disables schools from fulfilling their basic function – the education of the children and the youth. If the problem is left unsolved, all the efforts made to promote the educational process, the democratization of the teaching process, the process of building knowledge, skills and attitudes necessary for successful dealing with all the challenges of the 21st century, will be only dreams put into plans, programs and strategies which unfortunately will not be fully realized or implemented in real life.

In 2012, the local authorities again failed to provide complete and professional education for the children with special needs. From a formally legal aspect these children are guaranteed to receive education with special curriculums and programs. Formally speaking, children, depending on the level of their psycho – psychical ability can enroll in the regular education system with other children, or they can enroll in special classes within those schools, but they are also guaranteed the opportunity to gain their education in special schools. However, the actual condition of this matter is that children do not enjoy these right fully or they face them with difficulty. The re-curent problem is the inadequate expertise of the teaching staff to properly work with these children, as well as the lack of appropriate pedagogic methods to include these children in the school environment without them feeling different. The local authorities still disregard their ob-

ligation to employ a teaching personnel which will provide high-quality and expert education for all children. Beside these shortcomings related to personnel and expertise, a lot of municipalities have failed to provide technical access to school property for children with disability. In one particular case, the Ombudsman has succeeded in ensuring the formation of a new grade for children with special needs so they can attend high – school level classes and with the collaboration of a non – governmental organization has successfully began the process of opening a high – school for children with special needs, so that children from the surrounding region can fulfill their right to high – school education. The number of elementary schools where children with special needs can follow educational classes is still not enough. There are certain regions in the Republic of Macedonia which do not have this type of schools at all. This means that although these children are formally provided with their right to education, it cannot be fulfilled in real life, especially considering the inability to coordinate the beginning of classes with the time schedule of the public transport. In these cases the right to free school transport is additionally violated or completely ignored, because parents are forced to drive the children to school using own means of transport which costs more, and the reimbursement of travel expenses is calculated per price of public transport and the payment is several months late. The reimbursement of travel expenses is late also for students who use the public transport on a daily basis even within the region of a single municipality.

Considering that these issues are exactly the same as those found last year in this domain, the Ombudsman requested that local authorities increase the number of schools which will include children with special needs in the regular education and will make timely reimbursements of the travel expenses according to the realistic expenses in order to improve the condition of our school system and to overcome the problems children with special needs face. The local authority should undertake appropriate measures to employ expert teams capable of working with children with special needs, as well as to provide additional training and professional improvement of the existing teaching personnel within schools. Furthermore, the Ombudsman recommends that the number of students in those classes which include children with special needs should be decreased in order to create opportunities to work with these children on an individual basis. The Ombudsman suggests that the local authorities should educate the parents of these children through special programs and projects on the ways they can help in their children's education and the curriculum, and he emphasized the need of regular and good cooperation between the parents and the teachers as it is collaboration in the best interest of these children.

The public educational system in Macedonia is organized and governed by the model of separate education for different nationalities. The citizens have the right to freely express their national identity, and this includes their choice on the language of their education. In practice however the fulfillment of this right has shown no progress and it depends on the number of members of the ethnic community in the Municipality and it usually applied to the Albanian ethnic community since it is the largest one in our country. This right is also applicable to students from the Turkish ethnic community in these municipalities in regions where the Turkish ethnicity dominates, while other communities face difficulty when trying to fulfill their right in this domain because of the small number of students and the lack of adequate teaching personnel. Students continue to attend mixed ethnic schools where classes are held in two or several languages and this represents an additional factor for dividing the students, because in order to prevent inter-ethnic conflicts students who attend classes in different languages are separated in different shifts or buildings. These divisions lead to frequent boycotts of the educational process, conflicts among students, as well as among teachers of different ethnicity background which ultimately results in the presence of violence in our schools. The Ombudsman has indicated the need to take active measures and introduce policies which will animate and include students, parents and employees in the solving process of violence in schools and to create models for increasing the safety of the students. The Ombudsman fully welcomes "The Strategy for reducing violence in schools 2012-2013" of the Ministry of Education and Science aimed at providing conditions to prevent all types of violence and to develop a comfortable and stimulating school climate and co-habitation within school premises, with the inclusion of the cooperation of all key members in the educational process on a central, local and school level.

The Ombudsman emphasizes the need to take active measures and promotional policies in regards to the Roma community and Roma children as they are the target of the most intense

negative stereotypes and social distancing from other children. Unfortunately, the Republic of Macedonia still sees cases of segregation of Roma students as some schools separate these children from the rest of the students, place them in special grades and for these children the regionalization of the enrollment process does not apply. The problem of segregation in a legal context should be solved in a legal manner. In respect to the legal provisions, the actual conditions indicated that the laws allow parents to enroll their child in a school which is located outside the region of their permanent residence and yet this is contradictory to the provision of regionalization. The flexibility in interpreting the legislation leads to a situation when a region of mixed ethnicity includes schools of only one ethnicity.

The Ombudsman insists on consistent respect of the regionalization process and that situations when this process is violated should be a justifiable exception and not the rule. Precisely this flexible interpretation of the regionalization process has led to the fact that in Bitola Municipality, in a school which is normally attended by Roma and Macedonian children, in the school year 2012/2013 only a dozen Macedonian children enrolled the school due to the overwhelming presence of Roma children. The Ombudsman indicated the consequences of these conditions and requests that the municipality administration takes measures to prevent these occurrences, since they can have a negative effect and jeopardize the existence of the school in this type of environment.

Labor relations

Having a professional and effective municipal administration without any political affiliation is a key factor for quality level of the services citizens receive, a factor which contributes to the development of the society and the democratic processes in our country. Considering that the services provided by the municipal administration are crucially important for the citizens of our society, every municipality that is every major as her employer has to strive for a modern, professional and effective administration. The municipal administration must constantly improve their relationship with the citizens; the main goal must always be the service of citizens, and to strive for efficient, effective, transparent and open operations with constantly improved service quality. During its operation, the administration has the obligation to perform its tasks in an unbiased manner, without the pressures and influences of political parties or other centers of power. The administration should not be governed by its own political beliefs, or the personal financial interests, it should not abuse its authorizations and the status it holds as a state official and must always protect the reputation of the Municipality.

To achieve this type of municipal administration in real life, the mayor of the Municipality, as an individual who manages the administration and decides on employment opportunities, when recruiting new personnel in the municipal administration he should always consider the professional qualifications of the candidates, their work experience, personal characteristics and skills, because this is the only way to employ the best possible candidates. The Ombudsman has again indicated the need to follow the "merit" system during the recruitment process instead of the "spoil" system which employs individuals on political, relative or friendship recommendation.

This report year, the Ombudsman has received a small number of complaints referring to a violation of their rights during the recruitment process and all of them related to a single municipality. Namely, on basis of the program – project – model of modern multicultural education of preschool children in mixed ethnic and bilingual groups, initiated with the financial support of a foreign embassy, several individuals were employed back in 2000 as teachers in primary schools.

After the financial support of the embassy has ended, the Government of the Republic of Macedonia has reached several conclusions on integrating the model of multicultural preschool education in the system of public institutions for children – kindergartens and in addition the competent ministries and mayors of the municipalities which participated in the projects were given instructions to regulate their working status. Despite the government conclusions and the secured financial assets for the employment process, the mayor of the municipality and the kin-

dergarten obstructed the employment procedure. Acting upon complaints, the Ombudsman has requested an explanation from the Mayor for obstructing the employment process even though all financial means have been delivered and even though there is an overall interest in providing a multicultural society for the different ethnic groups even from the youngest age of children. The mayor's excuse consisted of inadequate spatial conditions to execute the educational process as the main reason for delaying the employment procedure for teachers.

The Ombudsman made a special written report to inform the Minister of Labor and Social Policy on the case and requests that actions and measures are taken to overcome the problem obstructing these citizens' rights to employment. The Minister informed the Ombudsman that measures are currently being taken to provide the necessary space in the Municipality as the founder of public institutions for a kindergarten, which will create the prerequisite conditions for the functioning of this group within the exiting municipal kindergarten. Even after this response, the mayor of the municipality and the manager of the kindergarten continue to delay the procedure, complaining on the lack of spatial conditions. The Ombudsman finds this unacceptable and illogical that the municipality cannot find the space in either one of the kindergartens in order to continue the process of multicultural education of preschool children in mixed ethnic and bilingual groups, which is a need that has been declaratively accepted by the whole society.

The Ombudsman has received several complaints from employees at the municipal administration, relating to the inadequate handling of disciplinary procedures, or issuing decisions by the mayors for fines as punishment for disciplinary offense, without prior inquiry and legal procedure as foreseen by the Law on state officials. The Ombudsman also intervened with the Commission on Decision – Making on Complaints of State Officials at the Administration Agency. Prior to submitting their requests to the Ombudsman, the employees have requested that first the realistic situation should be establish and only then to reach a decision in accordance with the law. After the inquiry, the Commission annulled these decisions in order to protect these citizens' rights. There were complaints in relation to the procedure for evaluating the method of performing work tasks of the state officials at the municipal administration by the mayors, where the supplicants stated that they are being evaluated unfairly and tendentiously. The Ombudsman advised supplicants on the procedure in this kind of situations handled by the mayor, in accordance with the Law on state officials.

The employees at the municipal administration reacted to violations of the right to receive compensation to salary because the mayors did not pay severance pay, annual leave regress or other payment compensations. Acting upon complaints, the Ombudsman succeeded in helping citizens' fulfill their rights to all types of compensations and in cases when the Ombudsman received the explanation that the delay of payment is due to the insufficient finances from the municipality's Budget, he was promised that the payment will be made in the beginning of the new fiscal year. In these cases, the Ombudsman advises the employees to respect the legal timeframe in which they can seek protection before a court on the basis of monetary requests on labor relations, of course in case when their rightful payment is not completed the following year.

In the area of violation of right from labor relation, the Ombudsman received complaints from teachers at elementary schools, the majority of which related to the protection of their right to a realistic reimbursement of transport expenses to and from their place of work. According to the Mayors, by introducing the concept of gross salary, the obligation to pay additional amounts for the teachers transport has ended and they referred to the opinion given by the Ministry of Education and Science and the Ministry of Finances. While acting upon these complaints, the Ombudsman addressed indication to the mayors of the municipalities referring to legal provisions and the collective agreements which secure the right of the employee to reimbursement of realistic transportation expenses. He indicated that in its legal force, the law and the collective agreement have an obligatory and mandatory character for all parties they relate to, no matter the opinions received from the ministries, whose opinion has the fundamental character of an individual attitude or a group and cannot be used in the same manner as a law nor does it have the same legal force as the law.

The mayors indicated that they do not have the additional financial means, except these block subsidies, to cover the travel expenses according to the realistic amount.

Considering the position of the bodies of the local self-government in relation to the right

to pay a realistic compensation on the travel expenses to and from the place of work and the disregard of the Ombudsman's indications on their obligation to respect the provisions of the General Collective Agreement for the public sector and the Collective Agreement on elementary education, which stipulate that these rights are decisively established and acknowledged, the Ombudsman has advised teachers to seek legal protection of this law.

The lack of financial assets in school was the basis for the lack of payment of severance even after the promises made that when the finances are procured the severance pay will be paid in full.

The teachers from elementary schools also submitted complaints on the decision – making on the termination of their labor relation and the practice of not extending the labor agreements even though they have fulfilled the prerequisites for transformation of their labor relation to an indefinite period of time. In their complaints they alleged that the principals recruited other teachers for their positions. According to the Law on Labor Relations, it is a discretionary right of the principal to decide who to sign a contract with, on definite or indefinite time basis, but this right must not be abused and before the time needed for the transformation of their labor relation has expired to refuse the renewal of their labor agreement. In relation to employments in elementary and high- schools, several complaints requested the Ombudsman's intervention to establish whether an employee has the proper education necessary for the position he or she is at, so the Ombudsman requested that state and competent teaching inspectors investigate this occurrence and to submit their findings after the inquiry. The inquiries did not find any violation in the procedure related to the necessary education of the selected candidates except in one case, so the Ombudsman again advised citizens on the discretionary right of the principals to sign an employment agreement with any candidate they want and who meets all the necessary criteria for employment. In exceptions, when the competent body finds errors in the procedure to select a candidate and an incomplete finding whether the candidate possesses the necessary education or not, the Ombudsman, since the school year has ended by the end of the procedure in question, submitted suggestions and recommendations to the mayor of the municipality and the principal of the school to follow the procedure for recruitment of teaching personnel in accordance with the Law on high – school education and the standards for teaching personnel for certain subjects, made by the Bureau for Educational Development in the Republic of Macedonia, in order to ensure legal operations and quality and professional performance of the educational actions by the school and to ensure the quality education of children who attend classes in this high –school.



In other cases, during the process of the procedure, supplicants filed court proceedings to protect this right, so the Ombudsman has put a halt to all his procedures.

This report year there were complaints submitted by the employees at the public enterprises established by local authorities, and employees at kindergartens. The complainants indicated violations of the right from the labor relation domain and to salaries not being paid, the transfer from one position to another, refusal to determine the working status even after working at the enterprise for 10 years, not paying annual leave compensation, no insights in the collective agreements. There was a complaint from an individual that has worked in a kindergarten as a volunteer but has performed the same work tasks as other employees with a regulated working status. Acting upon these complaints, the Ombudsman succeeded in protecting the rights of the citizens in all cases where violations were found, and has advised the volunteers that their status is not solved due to the disapproval of financial assets for employment by the Ministry of Finances and indicated the legal mechanisms through which they can protect their labor rights.

Considering these factual conditions, the Ombudsman feels that the mayors and other managers of the public enterprises or institutions, whose founder is the local self-government, do

not always follow the procedures and methods stipulated in the Law in regards to labor relations and once again emphasized their legal obligation to do so.

Social protection

The basic intention of the decentralization process in the social protection domain is that the municipalities gain a sense of participation in the role of deciding upon the social problems of the vulnerable groups in their region.

The Law on Social Protection from 2009 has introduced the mandatory element through which the municipality is obligated to accommodate its development plans to the strategic programs of the Ministry of Labor and Social Policy. The municipalities have competence to organize and implement social protection for the citizens in their region through preparing their own development programs in accordance with the specific needs. This means that the basic intention of the changes made to the legal regulations were aimed towards the active involvement of the municipalities in the decentralization process in the social protection domain.

The Ombudsman indicates that one should not expect the decentralization process of the social protection system to be successful only because the competences of the institutions are being transferred from a central to a local level, so instead of the Minister of Labor and Social Policy, the manager of a certain institution for social protection to be elected as mayor. This is not what decentralization is about. A true beginning of the decentralization process in this domain will be seen when the municipalities begin to promote the conditions in the social protection domain and the social inclusion domain on a local level, when they succeed in raising the awareness on the poor and vulnerable groups in the community and when they begin to establish priorities in accordance with the realistic condition and to implement measures and activities to solve existing problems and improve the current situation.

In 2012, the local authority provided citizens with only one social measure at their disposal – a single financial aid of the users of social welfare or the individuals with low-monthly income. Even this single financial aid, according to the procedures initiated upon the received complaints, is not always paid in full or in time for that matter. The Ombudsman has acted upon a complaint from a citizen who has requested this type of aid for the mayor in February 2011 and has not been given a response for well over a year. The mayor explained the delay by pointing out that in 2012 all financial funds were spend and as a result the granting of financial has been put to a halt without explaining why the payment has not been made in 2012. The mayor reminded the Ombudsman that the number of requests is much larger that the municipal budget and the foreseen and secured means for this type of aid. The adequately submitted requests are postponed to a time when there are adequate materialistic–financial conditions to rebalance the municipal budget, and this does not mean they are rejected or denied. The Ombudsman questions how will the municipality help this citizens, because he belong to the socially endangered group and yet has to wait for almost 2 year to receive his financial aid. The Ombudsman feels that this is not a human and righteous way to fulfill the rights of the citizens to a social protection provided by the local authority.

As a result of this condition in the social protection domain, the Ombudsman requests that local authorities undertake more active measures and policies in order to ensure proper social services for the most vulnerable groups of citizens, by respecting the approach principles based on human rights. In addition, the Ombudsman indicates to local authorities the need to undertake more active measures and activities to educate citizens on their rights and the local authority to ensure the social protection of certain vulnerable groups of citizens.



Finances

The process of decentralization secures a legal framework for financing municipalities and increasing their competences in order to ensure efficient services for all citizens.

The Law on financing the local self – government units foresees the individual sources of income for the local self-government units, such as local taxes, local tariffs, local compensations, the income from ownership, donations, fines and other incomes stipulated by the law. The law foresees that local self-government units have an income from the value added tax which according to the changes in the law should be gradually realized until 2013 and to reach the amount of 4.5% of all the paid value added tax during the previous fiscal year, an income of personal taxes in the sum of 3% from the personal tax on personal incomes from salary of physical entities, paid in the municipality of their permanent residence. Furthermore, the law foresees subsidies from the Budget of the Republic of Macedonia as purpose, capital, block subsidies and subsidies for delegated competence. Beside these legal solutions for financing the municipalities which as it would seem ensure the overall financial independence of the municipalities and guarantee its unobstructed operation, the reality says that each municipality lacks the necessary financial funds.

In the Republic of Macedonia, only the Plasnica Municipality has still not entered the second phase of the fiscal decentralization and this is why this municipality is faced with huge financial problems. Other municipalities depending on the level of completed fiscal decentralization have an improved financial condition as a result of the increase of income sources in the municipalities, the public private partnership, credits and other financial sources.

Nonetheless, reality indicates that municipalities lack sufficient funds to finance their competences, and that the funds granted to municipalities by the central authority are not distributed in an efficient, timely or equal manner. This is why citizens do not feel that the local authority fully meets their requirements and their expectations. The number of citizens who can say that the municipality has improved their daily life is quite small, especially those citizens who can surely say that the municipality has built or renovated streets, renewed infrastructure, improved the conditions with water supply, solved the public lighting problem and all other issues relevant to the day to day activities and life of citizens.

In 2012, in accordance with the submitted complaints at the Ombudsman in relation to this domain, citizen again faced the attempts of the municipal administrations to forced payment of obsolete tax, the disrespect of legally established procedure to determine taxes – especially the method of implementing the Methodology for determining the value of a real estate, by delaying the appeal procedures and reimbursement of wrongfully paid taxes.

This year, the majority of complaints referred to the forced payment of property taxes dating even 10 years back. The Ombudsman, acting upon these complaints, has issued indications calling upon the provisions from the Law on property tax according to which the right to forced payment ends in five year time, at the end of the last year. The timeframe of 10 years is absolute and applicable only when during this time period the bodies have initiated procedures for forced payment of the unpaid taxes, and these actions terminate the obsolescence of the tax and renews the legal timeframe. After these indications, the municipal administrations did not act upon the indications and they tried to find any basis which would justify their illegal actions (most commonly that the tax debtor was issued with a notice, even though they do not possess proof of this and they do not have the information whether the notice was delivered or not). In these cases, the Ombudsman advised citizens to submit appeals on these solutions or to go to court for damage claims because of their unjustified freeze of their bank accounts.

The complaints relating to the payment of the sales tax on real estate included complaints from citizens indicating the violation of their right to ownership based on a Sales and Purchase Agreement and fully paid sales – purchase price, because the Government of the Republic of Macedonia as a seller does not pay the proper taxes. In accordance with the legal provisions, the prerequisite to register ownership is a fully paid sales tax. Upon these complaints, the Ombudsman did not find any violation made by the local authority because they did verify the signed agreements, but violations were made by the Government of the Republic of Macedonia by delaying the procedure to pay the sales tax on real estate and the Ombudsman indicated the services at the Government of the Republic of Macedonia on their obligation to immediately pay the ap-

propriate tax.

The Ombudsman has again found that during the performance of their financial authorities, the municipal administration officials violate the rights of citizens by selectively applying the legal procedure or not applying it at all. The Ombudsman has emphasized that the fiscal decentralization is one of the most basic pillars of every system of decentralization. In order to realize it objectively in practice in favor of the local authority but above all in favor of the citizens, the Ombudsman recommends that the Commission on Monitoring Fiscal Decentralization actively performs the duties provided by the law, to create analysis, suggest measures of the subsidies system, to prepare reports on the development of the system for financing municipalities, to recommend the building of capacities for financial management within municipalities, for the central authority to provide assistance when necessary that is to find a joint solution for the financial problems in the municipal budgets. Finally, the Ombudsman once again emphasized the importance of the involvement of citizens when reaching a local budget, as a way to establish the common priorities and to strengthen mutual trust.

Consumers' rights

The new Law on communal affairs defines communal affairs as an economic activity for providing communal services in order to satisfy the needs of the citizens, and the local authority provides the conditions for it adequate scope, quality, availability, continuity and monitoring of its operations. Communal affairs, even before the process of decentralization, were largely the responsibility of local authorities. Citizens frequently relate the successful performance of a municipality with the well organized communal services. The goal for local authorities, in this sphere, should be to provide citizens with a service of higher quality and in this way to justify the trust provided by citizens.

In this domain, this report year, citizens faced the same violations of their consumers' rights just like the previous year, only this year the smallest amount of complaints were received from citizens indicating to unjustified delay of the payment of the communal tax for public lighting on behalf of the municipalities. These municipalities are indebted to pay the communal tax without having street lighting installed in their region, or the same payment is requested for inhabited places with a small number of neighborhoods separated by several hundred meters, and only some of them have street lighting, or if they all have it, its installation consists of two or three poles with burned out lights.

Acting upon these complaints, the Ombudsman indicated and requests from local authorities to review the possibility of making changes and amendments in the decision to exempt certain places in the municipality from payment of communal tax for usage and maintenance of the public lighting system which will include all inhabited places and parts of inhabited places and will provide a clear picture of the realistic state on the field where all the places without public lighting will be exempt from the payment of these communal tax. Furthermore, the Ombudsman has indicated that citizens should be indebted with payment of services they receive not services they will receive in the future, and this is why the Ombudsman feels that those citizens who own houses in places where no street lighting fixtures are installed should be exempt from the payment of the communal tax for public lighting.

The Ombudsman indicated to the mayors that in accordance with the provisions of the Law on Communal Taxes the obligation to pay the communal tax arises from actually using the right, subject or service which requires the payment of a tax. This means, that despite the fact that this law related the obligation to pay the tax for public lighting with the implementation of an electric meter inside an object and its inclusion in the electricity network and no matter if that object is used or not, still the basic prerequisite for the payment of the tax is the actual usage of the service – to have public lighting.

A positive example where the municipality has solved this problem is the Kratovo Municipality.

pality, where the Municipality Council has reached a decision to exempt parts of inhabited places from the payment of the communal tax for public lighting. The exemption from the payment of this communal tax, the Municipality Kratovo has regulated the way in which citizens from these parts of inhabited places submit individual requests to the mayor of the municipality. The mayors in response to the Ombudsman's indications indicated that the decision – making for determining those places without public lighting installations is in the competence of the municipal councils. In addition, the responses included that this condition is due to the lack of finances in the municipality's budget or that the implementation of the public lighting will be foreseen in the program for public lighting, which is about to be adopted or has been confirmed by the municipal council, after which it will be implemented in the shortest amount of time.

Becoming more aware on their consumers' rights citizens frequently react when their rights are violated and request that competent bodies protect their rights. A group of citizens from several inhabited places, on the territory of the Staro Nagoricane Municipality, filed a criminal claim against the mayor of this municipality for abuse of the communal tax for public lighting. The Ombudsman acted upon several complaints from supplicants with houses or weekend cottages in this municipality who have confirmed the above stated about the mayor, who in turn, responded that the public lighting on the municipality's territory will be regulated with the program from 2012 for building, renewal, reconstruction, maintenance and fixing of roads, streets, marking roads with horizontal and vertical signalization, construction and outbuilding and regular maintenance of the street lighting network which encompasses the inhabited places.

The citizens are advised on the possible legal remedies to initiate administrative procedures against the municipal administration in order to be reimbursed with the illegally charges communal tax.

Second in number were the complaints from citizens indicating that the public communal enterprises, founded by the Municipalities, deliver notices to citizens for unpaid debt in terms of water supply, sewer system, waste collection, and threaten them with initiating forced payment procedures or with disconnecting them from the supply system.

Acting upon the complaints from these citizens, the Ombudsman has found that these requests to pay obsolete debt are usually not supported by providing the required information whether notices were adequately sent on these debts or not.

The Ombudsman has addressed indication to all communal enterprises indicating that the delivery of the notices in question creates a situation when part of the citizens under the pressure of forced payment are willing to accept their office and sign an agreement for the payment of the debt in installments, regardless of the fact that the debt is outdated and regardless of the fact that they are not legally obligated to pay this debt. In his indications, the Ombudsman has emphasized their obligation to respect the Law on Obligations according to which the debts become outdated after a year, and these debts refer to all services from electricity, heating supply, gas, water, chimney sweeping services and cleaning services when the service is made on the needs of a household. Public enterprises acted upon these indications and did not put additional pressure on the supplication to pay the obsolete debts.

The Ombudsman has also received complaints from citizens who indicate that the Public Communal Enterprises responsible for waste collection are requesting forced payment of debts for the communal service they did not use. Namely, the supplicants were indebted with the compensation for waste collection for buildings that are in construction phase and building which are vacant which means that this service is not being used.

Acting upon the complaints, the Ombudsman has again addressed indications to the public communal enterprises that the Law on Communal affairs foresees two sides – providers of communal services and users of communal services which on its own entails the obligation of the user to pay the service but only when the service is actually used, and obligated the service provider to ensure permanent and continuous execution of the communal activities as foreseen by the law. In accordance with the above said, the forced payment of a communal service – waste collection from an apartment or a building which is vacant, and is therefore impossible to create waste is unjustifiable and indicates the inexistence of an obligation relation.

Considering the above said, the Ombudsman indicated to these enterprises on the con-

tinuous violation of the consumers' rights in the stated municipalities made by requesting the unfounded payment of services the citizens do not use. Some public enterprises followed these indications and revoked the requests for forced payment of a debt but other did not. Since these violations are made by the same public enterprises in the same municipalities, the Ombudsman following the principle of effectiveness when acting upon procedures, immediately advised the supplicants on the possible legal remedy through which they can reimburse the amount already paid for this communal service, or the way in which they can seek protection from paying it in the first place.

Citizens reacted to the delays of the procedures to access the sewage system although all corresponding fees were paid, to the connection to the water network, the inability or illegality surrounding the procedure of changing a user of a communal service, and whenever violations were found, the Ombudsman acted appropriately.

Having the above mentioned in mind, the Ombudsman considers that the performance of communal activities by the municipalities has still not reached the desired level of development and there are still differences in the services they provide from one municipality to the next.

The Ombudsman indicates that a large number of municipalities lack unified procedures and forms of providing a certain service. In addition, some municipalities do not have general acts which are actually issued by the municipalities themselves, and would be helpful in defining and establishing the procedures for providing quality administrative services in the communal domain.

Property – Legal Domain

In relation to the rights of the property – legal domain violated by the local authority, only one complaint was submitted to the Ombudsman this report year, more precisely in December, and the procedure is still in progress.

Namely, a group of citizens (signees of the complaint) as owners of real estate in the region of the village expressed their disappointment and requested intervention in order to protect their property rights violated by the local self – government. The supplicants indicate that the municipality has usurped a part of their property – fields owned in the village region, without legal basis i.e., without prior notification and filed procedure for confiscation of real estate. According to the citizens, this type of behavior violates their rights to ownership and managing their real estate – arable fields (with planted agricultural crops) which represent the source of their existence.

In order to establish the factual state of the alleged violations, the Ombudsman has requested that the mayor of the municipality and the competent sector explain the legal basis for the confiscation of the real estate of the supplicants and has indicated to the constitutional provisions which guarantee the right to ownership, according to which the ownership cannot be taken or limited except when it is a matter of public interest regulated with a law. In cases of expropriation of ownership and in case of limiting the ownership by the bodies of authority which handle the process of expropriation, an appropriate compensation is guaranteed by law.

The Ombudsman feels that the lack of complaints from this domain, unlike previous years, is the result of the improvements made in relation to fulfilling and respecting citizens' rights by the local authorities and this improvement is welcomed and encouraged to continue in the future.

Environment

The Ombudsman has a strategic role in relation to the fulfillment, respect and the protection of the rights from the environment domain.

The Ombudsman has a strategic role in the process of ensuring fulfillment, respect and protection of the rights to a clean environment. His approach in this domain includes monitoring the condition of the citizens' rights to a healthy environment. The Ombudsman is trying to bring all the environmental questions closer to all the competent bodies, but also closer to citizens, to promote understanding that the communities are the pillar of changes in the attitude towards environmental issues and of course to strive for ultimate respect of the basic rights citizens have from the Aarhus Convention.

In the process of decentralization, the local authority is obligated to include the policy to protect and promote the environment in all developmental and strategic programs, just as it is obligated to undertake all measures and activities to protect the environment which are not the sole competence of the bodies of the state authority.



A large number of complaints from this domain were received last year by the Ombudsman, and even though the number of received complaints has increased, the number still does not reflect the realistic state in this sphere from any of the municipalities in the Republic of Macedonia. The complaints refer to the pollution of the environmental media (soil and water), the degradation of the nature by extracting sand from rivers, illegal landfills and waste in general throughout the cities and smaller inhabited locations, the increased level of noise caused by the activities of independent tradesmen and also the noise caused by catering facilities.

The complaints relating to the pollution of the environmental media (soil and air) are again this year focused on the improper management of cattle or poultry or their keeping in the outskirts, exposing their neighbors to constant noise and intolerable odors.

Relating to the noises caused by the activities of independent tradesmen and the catering facilities, the competent environmental inspectors follow the Ombudsman's indications, perform inspection insights and take appropriate measures.

Several citizens submitted their complaints this year because they felt that the radio – frequency radiation from the base station for mobile networks situated in the vicinity of their homes has a negative influence on their health. The Ombudsman requested the competent inspectorate to measure the level of radiation coming from the base station, and the measured limit was well within the allowed limits which harmless for the people's health and are in accordance with the Summary for executed measures of the radio – frequency radiation in the environment.

This report year, a large number of citizens reacted on the number of illegal landfills and the waste in general throughout the municipalities and the outskirts. As expected, in a city with an enhanced problem of waste and illegal landfills, a complaint was submitted requesting protection of the right to live in a healthy environment in Tetovo Municipality and the surrounding inhabited places, violated by the long term existence of the illegal landfill – over laden station located in the immediate vicinity of the local community, whose representative acted as the supplicant of the complaint. Due to the frequent (self) combustion of the waste in the landfill during the summer,

especially in high – temperature conditions, the intolerable stench and smoke are easily spread and are harmful to the health of the population. The Ombudsman addressed the mayor of the Tetovo Municipality in written form and indicated the need to take immediate actions to solve the problem of adequate waste collection, transport of waste and waste storage located in the illegal landfill. At the same time, he indicated the need to take immediate measures to dislocate the illegal landfill – over laden station further away from the city region. After the delivery of the written indication and several additional interventions, the mayor informed the Ombudsman in written form that from the end of August, the waste collection trucks do not dispose the collected waste by the Public Communal enterprise at the abovementioned location at the railway station in Tetovo, but the waste is taken to other locations. The Mayor has also indicated that activities are being taken to clear out the waste from the landfill.

Several other complaints were received from other municipalities in regards to illegal landfills, the problem of their incineration which causes the spread of intolerable odor and black smoke, the existence of waste in the city streets, inhabited places and market locations. In all of these municipalities, the competent bodies and the local authorities acted upon the Ombudsman's requests and undertook appropriate actions in order to protect the environment as well as the health of the citizens. In regards to this domain, the Ombudsman feels that the bitter problem of waste throughout the country must be intensively and efficiently solved by the local authorities, since the process of denationalization has transferred all competences of waste management over to them. At the same time, the Ombudsman requests immediate solutions to be found for the sixteen landfills in the Republic of Macedonia, which are according to the National Waste Management Strategy (2009 – 2015) classified as high – risk, and four of them must be immediately sanitized and closed, and the local authorities must act on these issues without any delays.

The Ombudsman, again this report year, feel that the right to a healthy environment is not secured for citizens at least not to the required level and this is the responsibility of the local authorities. The Ombudsman once again emphasized the need to strengthen the administrative capacities on local level, so that the local authorities can realistically implement the policies on protection and promotion of the environment in the field and it is high time to implement active measures of raising the public consciousness in regards to a healthy environment and to mobilize citizens who support the implementation of new plans and programs from this domain.

Final insight into the general state of human rights and freedoms on local level

This report year in relation to the level of respect of the citizens' rights by the local authorities and the relationship between the local authorities and the citizens, the Ombudsman feels that citizens are becoming more aware of their rights, more determined and more persistent in requesting their unobstructed fulfillment by the local authorities.

At the same time, along with the citizen's awareness the number of their complaints and expectations from the local authorities has increased in regards to fulfilling the proper competence in accordance with the process of decentralization. Furthermore, citizens are aware that the communication between the local authorities and the citizens themselves is still far from satisfactory, and that the local authorities continue to act as a "power force" and expect citizens to follow and support them unconditionally.

The local authority lack the awareness of the importance of the citizens' needs and acts according to what they see as the best interest, and usually completely forgets that its existence is to serve citizens. Thus, the Ombudsman indicates the need for local authorities to continue their efforts and improve their communication with the citizens, which will ultimately encourage the active participation of the citizens during the process of reaching decisions which directly affect them. With the improved communication, the local authority – citizens, the citizens will be able to enjoy their rights in a more efficient manner.



CASES

NP no. 1273/12

A citizen from Skopje has submitted a complaint indicating the unequal and discriminatory treatment of the administration of the City of Skopje in the procedure for establishing tax base for sales tax on real estate.

The Ombudsman has found that the suppliant is obligated by the sales tax on real estate and rights, although in this case he is also the buyer, and in accordance with the case verdict and the sales and purchase agreement did not assume the responsibility to pay the tax in question. Furthermore, the procedure failed to review the circumstance that all remaining cases arising from the same factual and legal obligation as his own (sales of apartments in the same building and the same seller – construction enterprise Ratko Mitkovic), all the buyers were exempt from the payment of this tax by the Mayor of the city of Skopje based on the corresponding decision issued by the Government of the Republic of Macedonia.

The Ombudsman has requested that the Major of the city of Skopje performs insight and investigation on the validity of the administrative procedures and also to evaluate the need of reviewing the content of the officially issued decision.

The Ombudsman's intervention was accepted by the Major of the city of Skopje and a new decision has been issued, exempting the citizen from paying the sales tax on real estate.

NP no. 1179/12

A citizen from Tetovo has complained on the unjustified delay of the appeal procedure against a ruling of the Administrative Court of the Republic of Macedonia.

Acting upon the complaint, the Ombudsman addressed the court which transferred the responsibility over to the Second instance commission on denationalization, explaining that despite several attempts, the commission did not send the relevant documents for the disputed administrative act, i.e., the relevant case documents could not be completed in order to

ensure a proper decision from the Higher Administrative Court.

Following the direct communication between the Ombudsman with members from the Second instance commission on denationalization, all the necessary documents were sent to the Administrative Court of the Republic of Macedonia, which in turn forwarded the case over to the Higher Administrative Court and in a short period of time a decision was issued, so the administrative dispute was finally solved.

NP no. 1042/12

A citizen from Skopje has delivered a complaint indicating the unprofessional treatment received from a police officer by overstepping his official authority and demonstrated illegal excessive use of force.

Acting upon the complaints, the Ombudsman has requested the Sector for internal control and professional standards to perform the necessary inquiry on the alleged statement and on the basis of the ascertained factual state to undertake the proper legal measures.

Upon the inquiry, the Sector has found that the use of force was not proportionate to the cause to be reached and this was a violation of the provision stated in the Law on police, and therefore with a Collective Agreement with the Ministry of Interior has suggested mandatory measures for disciplinary actions against the police officer.

NP no. 328/12

After the Ombudsman was visited by a citizen stating that her passport validity was revoked by the body for internal affairs with the explanation that the registered birth number indicated a male individual and not female. She was obligated to submit a request for a new passport and since this was not her fault, the Ombudsman has immediately requested that the Sector for administrative – control

work investigates the case and exempts the supplicant from paying the additional costs for the new travel document.

After the executed administrative control, the Sector has informed the Ombudsman that the former birth number has been issued by mistake and the citizen has received a new number, followed by issuing new travel documents and an identity card. At the same time, the supplicant was advised to submit a written request for the reimbursement of the additional costs for the new travel documents.

NP no. 225/12

Due to the insulting and provocative behavior of an employee (tutor) at the Skopje Prison, a convicted individual from the Prison has submitted a complaint with the Ombudsman, indicating the rude behavior of his tutor including insults on ethnic basis.

Acting upon the complaint, the Ombudsman has found that the employee has acted in violation of the Law on Execution of Sanctions and can completely disregard the re-socialization aspect as the basic function of the penitentiary – correctional and educational – correctional institutions. An Initiative for disciplinary actions against the employee was made, and the Commission for Handling Disciplinary Actions at the Skopje Prison has issued a decision with the disciplinary action – termination of the employment. Upon the submitted appeal on the abovementioned decision, the Administration Agency has returned the case to the first instance body which upon another procedure has again issued the decision to terminate the employment.

NP no. 521/12

A citizen has requested the Ombudsman's intervention because he was denied the right to register as an employee at the Center for Employment.

It was established that the employer did not submit the necessary documentation to the Center for Employment on time, and as a result the supplicant was denied registration.

The Ombudsman has pointed out the need to follow deadlines so that the supplicant can enjoy his right to employment as well as other rights arising from the labor relations.

The indication was accepted and after the employer submitted the proper documentation, the citizen fulfilled his legal right.

NP no. 93/12

In the complaint submitted to the Ombudsman, a supplicant has requested protection of her right from the labor relation domain.

Namely, the supplicant indicated that the officials from the municipality issued their conclusion "unsatisfactory" on her evaluation procedure, and after she filed an appeal, the Commission for re-evaluation of the opinion has rejected her appeal. Afterwards, the supplicant submitted another appeal at the Commission for decision – making on second instance appeals and complaints on state officials, and has requested the Ombudsman's intervention.

Acting upon the complaint, the Ombudsman addressed the Commission indicating that the decision – making procedure should consider all material evidence and facts prior to reaching a final decision.

The Commission for decision – making on second instance appeals and complaints on state officials has issued a decision which accepted the supplicant's appeal.

Afterwards, the Ombudsman has requested the mayor of the municipality to initiate another evaluation procedure and to pay special attention on the decision issued by the competent second instance commission as well as to notify the Ombudsman when the procedure is complete.

The mayor has notified the Ombudsman that the competent individuals at the municipality has initiated the evaluation procedure once more and the supplicant was evaluated with the grade "partially satisfying" and this grade was determined upon grading each individual criteria.

NP no. 3000/12

The Ombudsman received information that in the Skopje Prison, three detained persons were tied to a radiator during their processing procedure by individuals from the Security Service.

The Ombudsman has initiated a proce

dure which found that the officials have acted against the Rulebook on the execution of detention measures and that there were no grounds to use this kind of force.

The Ombudsman has sent special information to the Minister of Justice and the manager of the Administration for Implementation of Sanctions and has indicated the obligation to undertake measures in accordance to the positive legislation in order to deal with the above-mentioned occurrence.

Upon the Ombudsman's indications, the situation was investigated by an inspector from the Administration for Implementation of Sanctions, the alleged irregularities were confirmed and the Administration initiated a disciplinary measure against the officials.

NP no. 1022/12

A citizen from Veles, on his own behalf and on the behalf of other successors of the right to denationalization has submitted a complaint, requesting intervention in the delays of the procedures on their request for denationalization at the Ministry of Finances and the Commission for Decision – Making on Denationalization Requests with a head office in Prilep.

The Ombudsman, from the procedure itself, the circumstances and the submitted facts and evidence, among other things has ascertained that in order to evaluate the price of the property subject of denationalization, the Commission for Evaluating Real Estate – Subject of Denationalization at the Ministry of Finances – Skopje, received a proper injunction on 17th of May 2011 but no actions were taken.

In relation to this situation, the Ombudsman has indicated to the Commission for Denationalization and the Commission for Evaluating Real Estate to expedite the procedure and issue a decision as soon as possible.

The Ombudsman's recommendation was accepted.

NP no. 509/12

A citizen from Skopje has requested the Ombudsman's intervention because the Inter - Municipal Center for Social Work at the city of Skopje has issued a decision which ground

lessly terminates his social welfare payments, with the explanation that the citizen does not belong to the social risk group.

After the inquiry at the competent center for social work, the Ombudsman found inconsistencies in the evidence relevant for exercising this right, i.e. he found that the registry for the inquiry made by the officials at the citizen's home states that the citizens is indeed exposed to social risk, but despite the ascertained factual situation a decision was made to revoke his right to social welfare payments.

Upon the Ombudsman's intervention, the center's decision was annulled and a new decision was issued which grants the supplicant's right to social welfare.

NP no. 3705/12

A parent from Skopje has submitted a complaint to protect the rights of a seven and a half year old child who suffers from spine deformity, because the Clinic that operated on the child did not act upon her request to issue a ME report from the Medical Advisory Committee in regard to her child's treatment. The parent stated that the child underwent surgery 2, 5 years ago during which a metal rod was inserted in his spine and which needed to be loosened up on a six month basis.

Considering the child's best interest and the right to the highest level of health protection guaranteed by the Convention of the Rights of a Child, the Ombudsman has requested that the Clinic undertakes the proper measures and to provide the under aged child with an unobstructed health protection and this includes acting upon the parent's requests. The Clinic accepted the request and prepared a recommendation to send the child abroad for treatment and notified the parents in written form.

NP no. 3438/12

A citizen from Kavadarci has requested an intervention with the public enterprise "Macedonian Radio Television" in regards to their issued decision to seek payment for the broadcasting tax, although his household was exempt from the payment of this tax based on his son's disability, in accordance with the Law on Broadcasting.

The Ombudsman has indicated that the individual in question has been deleted from the registry for payment of broadcasting tax and has requested that the disputable decisions for his son and himself are annulled.

The public enterprise "Macedonian Radio Television" acted upon the Ombudsman's requests and confirmed that this household was addressed with the abovementioned decision.

Furthermore, the Ombudsman was informed that the error will be corrected i.e. the decisions will be annulled and will not cause any legal activity.

NP no. 62/12

Parents from Struga requested the protection of their child, a student at the Municipal high-school "Niko Nestor" – Struga, who suffers pressure and belittlement from the teachers on a daily basis, especially after a certain incident during the student's field trip.

In order to establish the factual state and to undertake proper measures to protect the rights of the student, but also to take measures against the teachers who exert psychological pressure on the child with their behavior and treatment, the Ombudsman has notified the State Educational Inspectorate and the authorized educational inspector in the Struga Municipality.

Upon the taken measures and the insight performed in the school the Ombudsman ascertained that the State Educational Inspector has found violations of the student's right and ordered the school as a legal entity and to the person responsible from the legal entity to undertake the proper measures against the teachers responsible for the psychological harassment of the child. After the inquiry the teachers were issued disciplinary measures in the form of warning, and the State Educational Inspector has filled a misdemeanor charge against the school as the legal entity.

NP no. 1286/12

A citizen from Skopje has requested the Ombudsman's intervention so that the authorized state inspector and the Gazi Baba Municipality do not execute the decision on removing the outbuilding of a sub-roof.

Acting upon the complaint, the Ombudsman has requested that the procedure to execute the decision regarding the removal of the outbuilding is put to a halt until the legalization procedure concerning a part of the construction is complete which will result in receiving an approval to build the sub – roof in question.

The body accepted the Ombudsman's request and the execution procedure was postponed, until the procedure to issue building permit for the sub-roof is completed.

NP no. 2414/12

The Ombudsman has received a complaint from a citizen of Skopje, referring to the environmental pollution caused by the illegal landfill formed along the river Lepenec and located in the immediate vicinity of his home.

Acting upon the complaint, the Ombudsman has requested the communal inspector from Karpos Municipality to perform an inspection and to undertake all actions within his competence.

The communal inspector along with the communal inspector of the city of Skopje have visited the location, ascertained the actual situation and implemented stricter measures to monitor the illegal activities with the warning that those individuals who will be found at the site in question with the plan to dispose of any type of waste will be subjected to rigorous sanctions.

NP no. 972/12

A supplicant from Prilep has submitted a complaint to the Ombudsman in regards to a delayed procedure with the second instance body after submitting an appeal against the decision which refuses the reimbursement of her medical expenses.

The Ombudsman found that the rights of the supplicant have been violated, and has intervened with the Ministry of Health several times, but since his written interventions and inquiries were not followed, he informed the Ministry of Health and the Government of the Republic of Macedonia. Furthermore due to the continuous delays in the procedure, he filed a special report to the Minister of Health indicating that this type of behavior obstructs the Ombudsman's work and violates the sup

plicant's rights.

After this report and the additional interventions made by the Ombudsman, measures will finally be taken, and the appeal was accepted and the subject returned to be re-evaluated by the first instance bodies.

NP no. 1217/12

A citizen has requested the Ombudsman's intervention with the public enterprise "Pazari" – Bitola whose activities continuously pollute the environment surrounding the citizens of the urban community "Aleksandar Turundzev" Bitola.

After the inquiry by the communal inspector from the Bitola Municipality, it has been ascertained that the environment all around the market space is indeed being polluted, and it was found that the market sells goods from trucks parked at the market, so he immediately issued a decision to the public enterprise "Pazari" – Bitola to immediately eliminate all irregularities from its basic operations.

In regards to the case, the Ombudsman has been additionally informed by the public enterprise "Pazari" – Bitola that a change of the detailed urban plan is currently in progress, and this change will provide adequate space for selling goods directly for trucks at the existing livestock market, which means that this problem will be overcome as soon as possible. The public enterprise has also requested the assistance of the Sector for Interior Affairs – Bitola to remove the trucks from the entrances and the streets surrounding the market.

By taking the necessary actions against the competent bodies for solving the citizens' problem in the urban community "Aleksandar Turundzev", the Ombudsman has expedited the activities leading to the removal of the irregularities that caused infringement of the citizens' right to a clean environment.

NP no. 1334/12

A single mother from Skopje has requested the Ombudsman's intervention because her social financial aid was cancelled and she was indebted to return the received aid on the ground that she failed to report the single income of 521, 00 denars.

The Ombudsman found that the case did not follow the legislation and did not respect the constitutional principle of social equity in providing citizens with social protection and social security, and has requested that the Ministry of Labor and Social Policy re-investigated the case, and this request has been accepted as well as the suppliant's appeal.

NP no. 1790/12

A retiree from Tetovo has submitted a complaint stating violations of his right to pension because the competent body from the Pension Insurance Fund in Belgrade has failed to pay his pension.

After confirming the violation of the rights, the Ombudsman has contacted the representatives from the competent pension body in Serbia and the representatives of the Pension and Disability Insurance Fund in the Republic of Macedonia and has pointed out the violations of the right caused by the lack of payment of the pension in question. Furthermore, he requested that immediate measures are taken for payment of the withheld pensions and to ensure continuous payments in the future, upon which the competent bodies accepted the recommendations, expedited the procedure in question and in a short period of time the retiree received his duly deserved pension.

NP no. 2259/12

A citizen has submitted a complaint to the Ombudsman indicating that the Ministry of Education and Science has violated his rights by delaying the procedure to grant recognition of a diploma for "Doctor of Laws" issued in the Republic of Bulgaria. The nostrification procedure began in 2011, and by the end of the year the Ministry of Education and Sciences issued a decision which refuses to recognize the diploma issued by the High Attestation Committee in Sofia – Republic of Bulgaria, as a document which confirms the completion of the third cycle doctoral studies and the of the corresponding academic title. Unsatisfied with the decision, the suppliant submitted an appeal with the State Commission on Decision – Making in Administrative Procedure and Procedure from Labor Relation in Second Instance, which has issued a decision to annul the Ministry of Education and Science's decision and to return the

case to be reviewed once more.

The Ombudsman has initiated a procedure indicating the Ministry of Education and Science to the legal timeframe for decision – making upon the requests, and the supplicant has informed the Ombudsman that he has received a decision which grants the recognition of his doctoral diploma issued in the Republic of Bulgaria.

NP no. 3209/12

A citizen has requested the Ombudsman's intervention because he has been indebted with the payment of the street lighting tax even though he does not use this service.

The Ombudsman has addressed the Rankovce Municipality, on behalf of which this tax is being paid, and has indicated that if the municipality did not supply or did not provide maintenance of the street lighting system they should issue a decision which will exempt citizens from paying a service they do not use. The Rankovce Municipality responded that the Municipal Council Rankovce has issued the decision to exempt citizens from the payment of this tax and has notified EVN on the decision.

NP no. 2113/12

A citizen from Skopje has requested the Ombudsman's intervention with the public enterprise "Vodovod i Kanalizacija" so that the removed water meter is re-installed and the citizen can be re-connected to the water supply system. Namely, the supplicant indicated that because of his difficult financial state he had an outstanding debt to the enterprise as a result of which the water meter was removed, but the citizen explained his willingness to pay the debt in installments.

The Ombudsman addressed the enterprise and considering the difficult financial state of the supplicant requested that he is granted the opportunity to pay the debt in a most favorable manner for the supplicant of the complaint.

Upon the Ombudsman's intervention, the public enterprise signed an agreement with the supplicant for payment of debt in installments and after the first installment was paid his water meter was re-installed, and the citizen regained the chance for a normal day to day functioning, i.e., he was allowed unobstructed use of the water supply service.

NP no. 1189/12

After the Health Insurance Fund, Regional unit – Tetovo, has rejected his request, submitted with all the necessary medical documentation, to receive an evaluation for temporary disability to work in order to receive sick leave compensation, a citizen from Saracino village, Tetovo has requested the Ombudsman's help.

From the submitted documentation, the Ombudsman ascertained that the supplicant's rights have been violated, but since his interventions were disregarded by the Regional Office in Tetovo, the Ombudsman addressed the manager of the Health Insurance Fund – Skopje.

The indication was accepted and the supplicant was granted the right to be evaluated as temporarily incompetent to work and upon the written opinion of the competent medical commission he received his financial compensation.

NP no. 2674/12

A supplicant from Skopje has submitted a complaint to the Ombudsman and has requested an intervention with the "Snabduvanje Zapad" DOOEL – Skopje and "Toplifikacija" AD – Skopje, because she has received a request for payment of a debt from 2001 when the apartment was not even registered in her name. Furthermore, the supplicant has enclosed all the invoices in her name all of which were paid from the day she moved into the apartment, and has submitted evidence in the form of invoices from this year and none of them include the obsolete debt.

Upon revising the submitted documentation and the statements in the complaint, the Ombudsman has ascertained a violation of the supplicant's consumers' rights and has addressed the with the "Snabduvanje Zapad" DOOEL – Skopje and "Toplifikacija" AD – Skopje.

The Ombudsman requested both enterprises to review their registries and to establish the exact date when the supplicant is registered as a consumer, indicating to the fact that it is unacceptable to burden someone with a debt for a service that has not been used.

The Ombudsman's indications were accepted and the debt was removed from the registry after reviewing the documents related to the timeframe in which the supplicant has occupied the apartment in question.

AP nr. 20/12

A complaint submitted by a citizen from the village Izvor in the Lipkovo Municipality indicated that for quite some time an official representative from the Department for Birth Registry in Kumanovo has refused to accept his documents to register their children in the registry because the children's mother is not an official citizen of the Republic of Macedonia. The supplicant was informed that until the mother gains citizenship the children cannot be registered in the birth registry.

Upon reviewing the submitted evidence, the Ombudsman found that the mother is not a citizen of the Republic of Macedonia but is married to a citizen of the Republic of Macedonia who is also the father of the children, and this can be supported by their marriage certificate. In this particular case, the children were born at home but they possess documents for regular vaccination.

The Ombudsman made an inquiry and contacted the managers at the Department who were indicated that they need to accept the supplicant's request and to decide upon the matter because the law requires them to do so.

The Ombudsman's indication was accepted as well as the supplicant's documents and within the legal timeframe his children were registered in the Birth Registry.

**NP no. 294/12, NP no. 359/12,
NP no. 3154/12,**

Several citizens have submitted a complaint at the Ombudsman's office in Strumica indicating the violation of their rights due to the delays of the procedure at the Ministry of Finances – Administration for Property – Legal Affairs, Department for Administrative Procedure of First Instance in Strumica and Gevgelija, in relation to decisions on the privatization of construction land. The requests with the corresponding documentation were submitted in 2007, 2008 and 2011 but they were not acted upon.

Acting upon the complaints, the Ombudsman indicated that the delays of procedures and the lack of proper decisions violate the supplicants' rights because they are not unable to fulfill other rights from the property – legal domain, nor can they regulate the ownership relations, so the competent bodies were asked to decide upon the matters as soon as possible.

Upon the Ombudsman's indications the competent bodies undertook measures and actions and the supplicants received their decision, i.e. they succeeded in fulfilling their right.

NP no. 1280/12

A complaint was received from a supplicant from Dolno Palchishte village, Tetovo, requesting the Ombudsman's intervention in the delay of the repeated procedure caused by the Basic Court Tetovo on the basis of the decision issued by the Appellate Court Gostivar.

The Ombudsman had a meeting with the acting judge at the Basic Court Tetovo and made an inquiry over the case matter and ascertained that although the repeated procedure is complete, the legal timeframe to prepare and deliver a verdict has not been followed nor respected.

Upon the Ombudsman's indication, the judge prepared the verdict in written form and delivered it to the supplicant and the other interested party in the proceeding.

NP no. 2492/11

The citizens from the Zajac Municipality have submitted a complaint against the Ministry of Interior and the Commission on Decision – Making on Requests to Gain Macedonian Citizenship of second instance.

The Ombudsman – the regional office in Kicevo has initiated a procedure and ascertained that the citizens meet all the necessary requirements to become a citizen of the Republic of Macedonia and has informed all the competent bodies of his findings.

The Ombudsman's – Regional office in Kicevo indication was accepted and the body issued a decision to grant the citizen with citizenship in the Republic of Macedonia and allow the citizen to fulfill his rights.

NP no. 398/12

A villager from the Veljusa village – Strumica has submitted a complaint to the Ombudsman's office expressing his disappointment in the procedure handled by an executor from Strumica, who has frozen his bank account because of outstanding debts for social aid.

Acting upon the complaint, the Ombudsman pointed out the legal provisions for exemption from payment, and has submitted the relevant evidence (decision issued by the Center for Social Works, bank account statement).

The indication was accepted and the executor unfroze all the assets in the supplicant's bank account.

AP nr. 591/12

A villager from the Blatec village – Vinica has submitted a complaint reacting to a violation of his right from the pension and disability insurance domain because he was unable to fulfill his right to retirement pension (with foreign element) for three years now.

On the basis of the statements from the complaint, the Ombudsman has found that the procedure has been constantly delayed and so the Ombudsman addressed the Pension and Disability Insurance Fund to undertake the necessary measures, to expedite the procedure and decide upon the matter in question.

Upon the Ombudsman's indication the necessary communication with the competent institutions from the Republic of Serbia was established and the Ombudsman was informed that the case was solved with an act and payment of the retirement pension, which allowed the citizen to fulfill his right.

AP nr. 2552/12

Upon the requested intervention by a supplicant from Tetovo in regards to delays of procedures related to granting citizenship, the Ombudsman addressed the Ministry of Interior – Department for Civil Affairs, the Sector for Administrative – Supervisory Affairs and asked for immediate decision to be made upon the supplicant's request because he meets all the legal prerequisites for the case at hand.

The indication was accepted and the competent sector at the Ministry of Interior informed the Ombudsman that they have issued a decision which grants the citizenship of the Republic of Macedonia to the supplicant in question.

NP no. 4018/12

A citizen from Kicevo submitted a complaint to the Ombudsman against the executor Nikolina Ivanova from Bitola because of the injunction to freeze his bank account which is considered to be a financial compensation received as social aid.

The Ombudsman – Regional Office in Kicevo has first ascertained that the executor has violated the Law on Social Protection and then sent an indication which was fortunately accepted and the injunction to freeze the bank account of the citizen was revoked.

AP nr. 919/12

A citizen from Kumanovo has expressed his disappointment in the proceeding handled by an executor from Kumanovo and has requested the Ombudsman's intervention.

From the submitted evidence, the Ombudsman has ascertained that the executor has not acted in accordance with the Law on Execution in regards to the exemption from payment from employment income (salary post tax).

The Ombudsman indicated that the competent body must follow the legislation during the execution process and to avoid implementation on the entire amount of the salary which represents the supplicant's only means of existence, but to take only 1/3 of the salary, and all the assets taken thus far should be returned in full so as not to jeopardize the citizen's own existence.

The executor has accepted the Ombudsman's indication and revoked the injunction from the bank, and 1/3 of the supplicant's salary continued to be withheld after the previously seized assets were returned to his bank account.

AP nr. 10/12

A citizen from Stip submitted a complaint at the Ombudsman's office in regard to delays of procedures with the Basic Court in Stip related to the process of decision - making on a purchased apartment bought at a public auc

tion at the Basic Court in Stip back in 2009. These delays obstruct the citizen from fulfilling his right to register the real estate in the Cadastre for Real Estate.

Upon the inquiry, the delays were confirmed and the Ombudsman has requested that a proper act is issued to end the procedure once and for all.

The judge accepted the Ombudsman's indication in full, issued a decision, and the citizen was allowed to register his real estate in the Cadastre for Real Estate.



THE OMBUDSMAN – NATIONAL PREVENTATIVE MECHANISM

The Ombudsman, in 2012, as the National Preventative Mechanism (NPM) on the basis of its competence gained through the ratification of the Optional protocol of the Convention against Torture or other Types of Cruel, Inhuman and Degrading Treatment or Punishment, has prepared an annual plan for prevention from torture and in accordance with this plan has undertaken activities from various aspects.

The national preventative mechanism has the competence to investigate the activities taken towards persons deprived of liberty at the places for deprivation of liberty, to submit recommendation to relevant bodies in order to improve and treatment and the condition of persons deprived of liberty and to submit recommendations and insights in relation to the existing or draft legislature.

In accordance with its competence, the National Preventative Mechanism team during 2012 has had free access to all information related to: number of individuals deprived of liberty, the treatment of these individuals, the conditions of their deprivation of liberty, as well as access to all places of deprivation of liberty and their installations and facilities. This team was allowed to interview the individuals deprived of liberty without supervision or witnesses, as with any other individual the National Preventative Mechanism has felt can provide relevant information, and has also had the liberty in selecting the location and individuals for these interviews.

In 2012, the National Preventative Mechanism has made 32 preventative visits, 25 regular and 7 consecutive ones. During the regular visits of the places of deprivation of liberty, the NPM has established the accommodation conditions of persons deprived of liberty, the fulfillment of their rights and has identified possible risks of torture and other type of cruel, inhuman and degrading treatment or punishment. During the consecutive visits, the National Preventative Mechanism team has investigated the implementation of the submitted recommendations as part of the special reports from each visit made in 2011. All regular visits were made without prior notification in 12 police stations, 7 penitentiary–correctional institutions, 3 psychiatric institutions and 3 other institutions (Detention Center for Foreigners, Special Public Institution “Demir Hisar” and the Public Institution for children with educational and social problems “25 Maj” – Skopje). Special reports were made for each of these visits by the prevention units indicating their findings, insights and recommendations to the corresponding institutions and competent ministries.

In accordance with the established methodology, the National Preventative Mechanism has prepared special reports after each visit. These special reports are confidential and contain analysis of the situation, findings and recommendations for overcoming the found shortcomings. There is a special report for each of the 25 visits made during 2012. Each report contains positive and negative findings as well as recommendations on two levels:

- recommendations to the governing body of the institution or establishment, related to conditions that are in the competence of that body and to situations when the negative condition can be surpassed by taking certain measures and actions by the institution or the establishment itself, and
- Recommendation to the higher ranked body (ministry) requesting the fulfillment of certain technical – material prerequisites, budgetary implications, alterations of laws or bylaws in order to improve the established shortcomings.

In 2012, the NPM has made 7 consecutive visits as well, to ascertain the level of respect towards the recommendations submitted in the reports from 2011. The NPM has made 5 consecutive visits of police stations, one visit to a penitentiary–correctional institution and one visit to an educational – correctional institution.

The National Preventative Mechanism has ensured a multidisciplinary approach to the execution of preventative visits, by signing a Memorandum for the cooperation with the Association of Psychiatrists in the Republic of Macedonia. The prevention unit along with an out-sourced associate – psychiatrist has made a visit to the penitentiary – correctional institution “Idrizovo”, three psychiatric hospitals and the Special Institution in Demir Hisar.

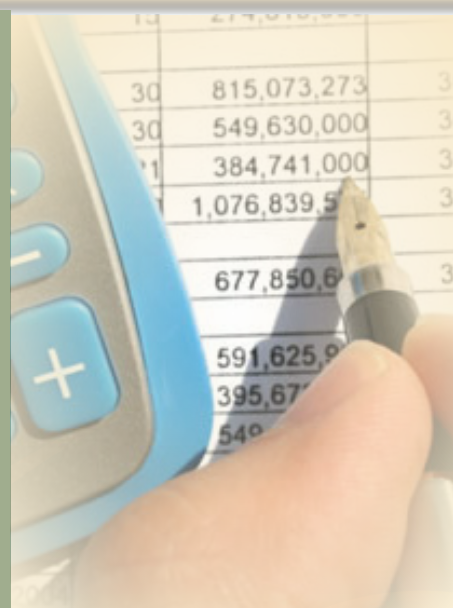
In 2012, several initiatives and opinions were submitted such as: The Initiative to alter the Standard Operating Procedures of the Ministry of Interior in regards to the process of detaining and treatment of detained persons, an Opinion to the Ministry of Interior of the Republic of Macedonia to change and amend the Rulebook on the general norms and standards in regards to the facilities for detaining individuals in police stations of general competence, an Opinion to the Ministry of Interior in the Republic of Macedonia to alter and amend the Rulebook on police procedures, an Opinion to the Ministry of Interior of the Republic of Macedonia to alter and amend the Rulebook of police officer’s behavior with temporarily confiscated or found objects and an Opinion to the Ministry of Justice of the Republic of Macedonia in relation to the Draft Law on Children’s Rights. Furthermore, the National Preventative Mechanism has requested in all these special reports based on ascertained conditions, that the House Rules in the Detention Center for Foreigners is altered, as well as the Rules on video monitoring in the Prison Bitola. The NPM, in order to secure transparency in all its operations, has regularly posted information on all visits, as well as the opinion submitted to competent bodies on the Ombudsman’s web page.



This report year, the National Preventative Mechanism has presented its first annual report for 2011, explaining the mandate of this mechanism, establishing a special unit for torture and other type of cruel, inhuman and degrading treatment or punishment, listing the preventative visits made to places for deprivation of liberty in 2011, including general recommendations and final insights into the conditions found at the places for deprivation of liberty. On May 30th, 2012, the Ombudsman has publicly presented the annual report of the National Preventative Mechanism for 2011 and this report has been delivered to all corresponding bodies and competent ministries.

With the goal to additionally strengthen the capacities and the exchange of experiences and good practices, the NPM was the host of the preventative mechanisms from Albania and Slovenia, and was also active on an international level, and participated in Project for building capacities of the European NPM under the auspices of the Council of Europe. Representatives of the National Preventative Mechanism have participated in the working group in Geneva, aimed to exchange experiences from the preventative monitoring aspect during the deportation process, as well as a meeting group in Belgrade on the topic of “Illegal immigrants, Frontex and the National Preventative Mechanisms”. Through the Twinning project the NPM has participated in several work groups including a joint preventative visit with the preventative mechanism from Spain, and a representative of the Macedonian NPM has participated in a training session

held in Paris, organized by the Association of Mediators and Ombudsmen on the topic of “Dealing with migration”.



ABOUT THE INSTITUTION

Organization and manner of work

The organization and the Ombudsman's work are determined in accordance with the Law on the Ombudsman and other laws and bylaws of the institution.

The Ombudsman, within the scope of his competence, performs his duties through the organizational units at the main office in Skopje as well as its regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

Personnel

During 2012, 5 new executors were recruited at the Ombudsman's main office in Skopje. Three executors have terminated their labor relations.

According to the qualification structure of the employees, 66 possess higher education, and 13 possess secondary level education. 47 of them are female and 32 male.

The Ombudsman employs 36 Macedonians, 31 Albanians, 3 Roma, 3 Serbs, 2 Vlachs, 2 Bosniaks and one Turk and Croatian.

Operational means

The operational means for the Ombudsman are secured from the Budget of the Republic of Macedonia.

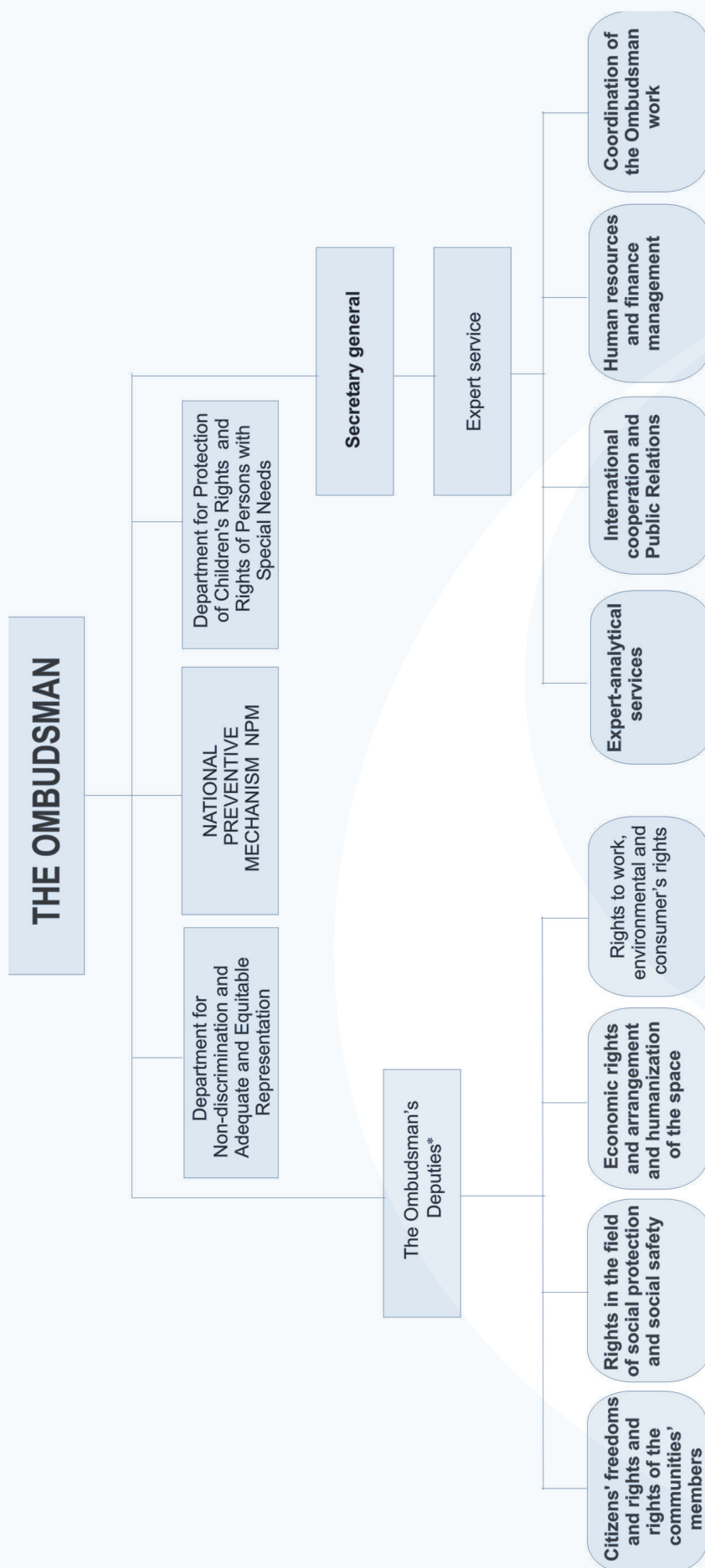
In 2012 the foreseen activities of the Ombudsman, in accordance with the positive regulations, were executed with 63.765.221, 00 denars or with 97, 28% of the planned assets.

The activities on promotion of human rights and freedoms and the possibilities for their protection in the year 2012 were realized with the financial support from: the Swedish International Development Agency (SIDA), the Organization for Safety and Support (OSCE) – Mission in Skopje, the Royal Netherlands Embassy in the Republic of Macedonia, "Save the Children", pre-accession IPA funds of the European Union.

The method of financing the institution's work remains disproportional to its competences and its position within the constitutional – legal system in the Republic of Macedonia. Especially since the Ombudsman does not participate in the preparation of the Budget, even if the Law clearly stipulates that the requested assets need to be justified in the Parliamentary Session. So far, this has been only been a formal obligation with no essential value.

The Ombudsman emphasizes the need for a special line in its budget for fulfilling the function of the National Preventative Mechanism which represents an obligation of the state in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

The Ombudsman continues to indicate the need for settling this issue by establishing a new, modern, transparent and independent financing system.



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

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Ombudsman**

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