

# ANNUAL REPORT ON THE LEVEL OF RESPECT, PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS 2013



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#### Introduction

thorisations.

Respecting of the rights and freedoms of humans and application of the rule "equal justice for all" is the basis for a functioning democracy and a condition for existence, building and maintenance of a tolerant and multi - cultural society, such as the Republic of Macedonia.

This civil and legal concept also implies strict adherence to the recommendations of the independent mechanisms, such as the Ombudsman, established to help citizens to achieve their constitutional and legal rights easier, but also to suggest to the state that the norms it established have to be complied with without exception.

The independence and impartiality of the Ombudsman contributes to the development of democracy in society, it guarantees citizen access to equal basis rights and corrects the possible inefficiency and ineffectiveness of the state administration bodies and bodies and organisations with public au-

This role makes the Ombudsman inherently connected with the citizens, who see in him a protector of their rights and freedoms, or an authority that listens to them, advises them and points out the ways of protecting rights, also pointing out, reminding the authorities of the need for consistent enforcement of the laws and bylaws.

Acting upon complaints, the Ombudsman in spite of reflecting the situation with the functioning of the system, through the recommendations and suggestions, indicates ways to remedy the violations and recommends measures aimed at professional and functional administration, which will consistently be in the function of the citizens.



Ixhet Memeti





National human rights institutions are based on the standards established by the so-called Paris Principles, in accordance wherewith the institution should have a mandate to actively promote and protect human rights. Paris Principles emphasise that national human rights institutions should be empowered to promote and protect human rights on the basis of powers set forth in a constitutional or legislative text. The national institution can help in conceptualising and conducting lectures on human rights and research programmes, and contribute to increasing the public awareness of human rights through information and education. The national human rights institution is also a mechanism through which the state fulfils its international responsibility "to undertake all appropriate action", so as to ensure the implementation of international human rights at the national level.

The Ombudsman in October 2011, upon submitting a request for accreditation to the International Coordinating Committee for a National Human Rights Institution received a B Status. According to the received B status, it was determined that the institution partially meets the criteria for a National Human Rights Institution.

In its evaluation, the Accreditation Subcommittee determined that the Ombudsman has a broad mandate for protection, but not for promotion of human rights. The Accreditation Subcommittee also demanded introduction of a pluralistic approach in selecting management functions within the institution, as well as strengthening the independence and public confidence in the institution.

In 2013, the Ombudsman in order to meet the Paris Principles undertook an initiative for amending the Law on the Ombudsman, on the basis whereon a working group at the Ministry of Justice was established. The need to fully meet the set criteria was also explained at the Inter-Ministerial Body on Human Rights and also a draft - text amending the Law on the Ombudsman was drawn up, that will allow pluralism, independence and will extend the mandate of the Ombudsman, by including the promotion of human rights in the existing legal framework.

The total fulfilment of the Paris Principles, as well as the acquisition of A Status was also demanded at the second analysis of the Universal Periodic Review for the Republic of Macedonia in the United Nations, that is, it was recommended that all the necessary measures should be undertaken, so that the Ombudsman institution will comply with the Paris Principles and will be completely independent in terms of funding.

Among other things, this will mean an obligation to implement the Paris Principles which state that the National Institution shall have an infrastructure which will be suitable for continuous implementation of its responsibilities, through adequate funding.

These findings are also contained in the Resolution on National Institutions for the promotion and protection of human rights, adopted by the Human Rights Council of the United Nations, which emphasises the importance of financial and administrative independence that Member States should ensure.

# EXTENT OF IMPLEMENTATION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS BY AREAS



#### FROM THE OPERATION IN 2013

#### TORTURE IN PCI "IDRIZOVO" ESTABLISHED BY THE OMBUDSMAN

After previously obtained knowledge, and a complaint filed later by a parent of a convicted person for physical abuse by an employee in the security service of PCI "Idrizovo", the Ombudsman initiated proceedings, following which a complete inspection was immediately conducted in this institution.

During the inspection, it was found that the officer, abusing their official duty, physically abused a convicted person who was immediately taken to the institution infirmary, and due to the severity of the injuries was taken to the Clinic for Urology, where one kidney and the spleen had been removed. The Ombudsman, despite the full insight regarding the respective case, also visited the convicted person at the Clinic for Urology and had a conversation with him and with a doctor - urologist.

Given this situation and the injuries that had been inflicted on the convicted person, the Ombudsman filed a request to the Public Prosecutor's Office for initiation of proceedings to determine criminal responsibility, which was accepted by the prosecution. The officer was sentenced to an effective sentence of one year and six months.

#### INSTEAD OF PROCEDURES, POLITICS IN THE LOCAL GOVERNMENT

After the local elections, a large number of employees asked for intervention by the Ombudsman to protect their employment rights regarding actions undertaken by municipality mayors.

Namely, the Municipality of Karposh adopted decisions to deploy employees of the municipality in urban and local communities without providing them basic conditions for performance of their duties, the mayors of the Municipalities of Gostivar and Tearce undertook measures against the principals of several primary and secondary schools for dismissal from the principal position before the expiration of their term, the mayor of Kriva Palanka imposed termination of employment without conducting a procedure prescribed by the law, the mayor of Studenichani adopted an order to deploy an employee, instead of adopting an administrative act for deployment, the mayor of Chucher Sandevo conducted a procedure on employee assessment without taking the data concerning the results of their performance into consideration.

In all these procedures the Ombudsman found illegal actions by mayors, that is not applying the provisions of the Law on Civil Servants in the implementation of assessment procedures for civil servants and procedures of termination of employment, then he determined actions contrary to the provisions of the Labour Law, and incorrect application of the substantive law - the Law on Primary Education and the Law on Secondary Education and failure to conduct legal proceedings provided for early termination of office of principals.

The facts stated above result in an indisputable conclusion that the main reason for undertaking these illegal actions is not the operation of the complainants contrary to their obligations, but their belonging to another political party, or that they were employed or appointed during the term of previous mayors.

# THE COMMUNICATION BETWEEN THE ADMINISTRATIVE COURTS, ADMINISTRATIVE BODIES AND THE BODY DECIDING IN SECOND INSTANCE, REASON FOR BREACH OF HUMAN RIGHTS AND FREEDOMS

During this reporting year, the poor communication between the administrative courts and administrative bodies continued, which calls into question the exercise of the right to complaint and indictment as an effective legal remedy.

The Ombudsman established situations where cases were lost by the administrative bodies, and in the largest number of petitions the administrative bodies did not respond to the requests of the courts to submit the cases along with the documents or even though with a huge delay, mistakenly submitted documents of other cases, as a result whereof the administrative courts could not provide proper application of the principle of trial in a reasonable time.

Despite the recommendations and suggestions of the Ombudsman that resolution of this issue requires a higher level of communication between representatives of the court, the Ministry of Justice and line ministries governing bodies that do not act on the request of the court, this issue as one of the barriers to greater efficiency of the court, has not yet been overcome.

The practice of unprofessional administrative operation of the administrative courts, which also obstructs the work of the Ombudsman, has continued.

# CHILDREN/PERSONS WITH SPECIAL NEEDS INAPPROPRIATELY CARED FOR AND TREATED IN AN INSTITUTION

The Ombudsman was informed by the National Preventive Mechanism that during their visit to the Institute for Protection and Rehabilitation "Banja Bansko" they found a child that does not have a physical disability, but is deaf and is under social risk. For security reasons the child was bound, nobody communicates with it and it does not receive proper attention and care, since the employees are not familiar with the voice speech. They also found another juvenile with mental disabilities, who instead of being in an institution for people with mental disabilities, is found in an institution for children/people with physical disabilities, as well as a person who has mental disorders.

The Department for Protection of children rights and rights of persons with special needs initiated a procedure on their own initiative and contacted the Ministry of Labour and Social Policy with a request for appropriate care of these people and treatment according to their disability.

# AFTER THE INTERVENTION OF THE OMBUDSMAN A MENTOR TO A STUDENT WAS APPOINTED

The Ombudsman concluded that for six years none of the professors accepted to be a mentor of a person with special needs, who is a student of the Faculty of Philology in Skopje. Namely, after completing the postgraduate studies, the student could not defend a master's thesis, that is, was unable to complete the education and obtain a master's degree. The Dean was also familiar with this case, but it was not proposed to the Science and Teaching Council to appoint a mentor. Following the Ombudsman's intervention the student exercised that right, but although a mentor was appointed, the agony continues since there is no commission before which the student would defend the thesis.

#### **DEPOSIT OR NO INPATIENT TREATMENT!**

Citizens have been conditioned by the PHI University Clinic for Surgical Diseases "St. Naum Ohridski"- Skopje to pay a deposit of 2.500,00 denars, as a condition for inpatient treatment at this clinic, which is against the law, and the rights of the citizens as patients are being impaired, regardless of the fact that this amount is then subtracted from the total amount.

# USERS OF THE RIGHTS IN SOCIAL CARE FACING DIFFICULTIES IN EXERCISING THEIR RIGHTS

The Ombudsman conducted a research in 2013, so as to determine the reasons for the difficulties in the realisation of citizens' rights and for the purpose of determining the conditions (material, staffing and technical capacities), the manner of operation and preparedness of centres for social work for timely and quality deciding on citizens' requests, regarding the rights in social care and social security.

The analysis of the data from the centres for social work and the visits to some of the Skopje departments of social work showed that the centres are not properly staffed and operate without the necessary material and technical conditions. In addition, many of them are in a bad state. As a consequence, citizens have difficulties in exercising their financial rights in social care, the decisions of the centres in charge are received with a delay and they are often not satisfied with the treatment of the staff and the quality of decisions adopted regarding their requests for achieving certain social care rights.

# THE CONDITION OF PREGNANT WOMEN AND WOMEN WITH PATHOLOGICAL PREGNANCY IS NOT THE SAME!!!

The Ombudsman considers and takes the view that pathological pregnancy is not a disease and cannot be equated with any other disease, but it is a condition of a pregnant woman, who because of the risk of the foetus needs to be absent from work and should not be damaged by reduced the allowance of 100% (for pregnancy, birth and motherhood) to 70%, thereby being damaged by receiving a reduced pension.

#### MOBBING PREVENTED BY INTERVENTION OF THE OMBUDSMAN

A high school teacher submitted a complaint to the Ombudsman for violation of the rights of the working process and committed harassment at the workplace, which lasted continuously for an extended period of time, resulting in the adoption of an act for revoking the right to financial compensation.

After the conducted procedure, the Ombudsman considered that a violation of workplace harassment – mobbing was performed, as a result of which he submitted an indication to the high school principal for annulment of the individual act that violated the rights of the complainant and also for stopping of any harassment of the complainant in her further work. Within the legally prescribed period, the principal informed the Ombudsman that the act whereby her rights were violated was annulled, which enabled the complainant to exercise her right.

#### CHICHINO SELO WITH SUBSTANDARD LIVING CONDITIONS

From the visit and inspection of the centre for homeless people - Chichino Selo, it was determined that the living conditions are sub-standard.

In addition, it was found that there is insufficient engagement by the professional services in the shelter, lack of appropriate programmes for finding a solution to the situation of residents in the Centre, as well as incomplete and partial realisation of their basic human rights. In the separate report, the Ombudsman recommended that the Ministry of Labour and Social Policy should develop an appropriate strategy with an action plan aimed at overcoming the problems of the homeless people.

# THE MAJORITY OF ROMA CHILDREN ATTENDING SPECIAL PRIMARY AND SECONDARY SCHOOLS HAVE MILD INTELLECTUAL DISABILITY AND EDUCATIONAL NEGLECT

In 2013 the Ombudsman conducted a research and visited the special primary and secondary schools for children with special needs in the Republic of Macedonia for the second time, whereby he concluded that all children attending special schools have findings and opinion of a competent authority, and many children, especially from the Roma community are with mild developmental disabilities and educational neglect. Discussions with officials in special schools suggest doubt in the existence of a disability in a child/children, although they have findings and opinion of a competent authority.

With reference to the state with the inclusion of children with special needs in special primary and secondary schools, the Ombudsman prepared an information and submitted it to the Ministry of Education and Science and the Ministry of Labour and Social Policy and among other things recommended taking substantive action regarding the issuance of findings and opinion of a competent authority, the composition of the commission, establishing cooperation with professionals from schools in monitoring the progress in the development of the child, and amending the Rulebook on assessment of the specific needs of people with disabilities in the physical or mental development, in order to prevent the possibility of issuing a finding that does not correspond to the real situation of a child.

#### AFTER TWO YEARS THE CHILDREN IN THE ARMS OF THEIR MOTHER

The Ombudsman concluded that the centres for social work still do not have the mechanisms to implement their own decisions especially in cases of illegitimate child custody.

The lack of coordination of the authorities and the untimely action led to a situation that two young children for nearly two years stayed with the extramarital partner of their mother, who did not allow maintaining of personal relations and contacts between the children and the mother, and did not act based on the decision of the Centre for social work, whereby the children were entrusted to the custody and care of the mother.

# EXTERNAL EVALUATION EXAM PASSED WITH MANY OMISSIONS AND STUDENTS SUFFERED THE GREATEST DAMAGE

Due to the many omissions in the manner in which the external evaluation exam was conducted and organised, a large number of students in the primary and secondary education received lower grades.

With a special information to the Minister of Education and the Director of the State Examination Centre, the Ombudsman recommended timely undertaking of specific measures to eliminate the omissions of this year's external student evaluation, strengthening the capacity of services in primary and secondary schools and their proper training in order to achieve adequate, efficient and effective realisation and protection of the right to education of children. He also suggested that instead of writing/ entering an unsatisfactory grade in the certificate, another solution should be provided, because the certificate is a public document in which a failing grade shall not be written/ entered.

# PUBLICATION OF VIDEOS FROM SECURITY CAMERAS ON THE INTERNET IS A VIOLATION OF PERSONAL DATA

For the Ombudsman it is undisputed that legal entities have the right to take measures to ensure adequate, reliable and safe working conditions and protection of goods they have in supermarkets, but extreme care should be taken that setting of video supervision cameras is not abused and that it is not acted contrary to the provisions of the Law on Protection of Personal data.

#### **VIOLENCE AMONG STUDENTS IN AND OUT OF SCHOOL IS STILL PRESENT**

The Ombudsman again raised the issue of safety of students and the inevitable need for an organised approach for dealing with situations of conflicts and fights between the children and the readiness of schools to deal with security risks, including the prevention of violence. The Ombudsman considers that it is necessary to undertake appropriate and continuous measures, to develop programmes for security in the schools, as well as establishment of an active and essential collaboration of the professional services with the parents, including representatives of students, teachers/ professors and the wider local community in the development and promotion of prevention as a response to violence.

# CHILDREN DO NOT KNOW HOW TO PROTECT THEMSELVES WHEN USING THE INTERNET

While visiting primary and secondary schools and talking to children, the Ombudsman found that every child uses the Internet, but children do not know that they can be persuaded, abused or harmed by information posted on websites and by using social networks. Children, especially in the lower grades and classes, are insufficiently aware of the abuses on the Internet and the manner to protect themselves from information that cause discomfort and almost do not tend to discuss that type of content with a parent or an adult they trust. The question is whether the parent/teacher can control the use of the Internet by children, or whether introducing limited access to certain websites and content for children should be considered.

#### THE OMBUDSMAN WITH STUDENTS OF PRIMARY AND SECONDARY EDUCATION

The Ombudsman through the Department for Protection of Children Rights and Rights of Persons with Special Needs in collaboration with the Regional Ombudsman's Offices in Bitola, Kumanovo, Kichevo, Strumica, Tetovo and Shtip, in the period October-December 2013, visited 67 schools, of which 39 primary and 28 secondary schools, and spoke to over 2,400 students from different ethnic groups (Macedonians, Albanians, Turks, Roma) who have shown interest in participating in educational and informative meetings with representatives of the Ombudsman.

Thereby, he found a lack of knowledge of the rights and vague distinction of rights and obligations and in the subjects that teach about human rights and freedoms, the issue of children's rights is insufficiently elaborated. In addition, the included material about the Ombudsman is abstract, so that it is difficult for the children to obtain a clear image of the role of the Ombudsman, as a body for the protection of the rights of citizens, that is, the rights of children, and much less about the other mechanisms protecting the rights of children.

## THE MINISTRY OF FINANCE SILENT FOR YEARS – THE CASE FORMALLY CLOSED, AND THE PROPERTY DENATIONALISED, BUT ONLY ON PAPER

The denationalised property was not delivered in immediate and actual possession of the applicant, although the denationalisation decision became effective in 2006. The Denationalisation Commission in Tetovo has been persistently silent ever since and has not taken any actions regarding the many requests of the person whose property was obviously returned only on paper. Moreover, it also ignores the fact that with an effective and binding court decision, adopted by a civil court, the request of the third party was rejected as unfounded, whereby that person seeks determination of the ownership based on the facility on the respective construction land and defining a temporary measure that would prohibit its disposal, alienation, loading, damaging and transferring in possession.

Following the Ombudsman's intervention to ensure the right of the citizen, the Commission responded that "a third party on 11 November 2011 submitted a request to the Commission for declaring the respective decision null and void and evidence for acting on the request is still being provided, if there is such a need."

The conclusion - ineffective, untimely and inefficient protection of the constitutional and legal rights of citizens without having any objective and legally based reason not to take legal action.

# WORRYING PHENOMENON-THE AGENCY FOR REAL ESTATE CADASTER IS LOSING CASES!!!

The Ombudsman concluded that the Agency for Real Estate Cadastre cannot act on the requests of citizens "since they cannot find the documents of the case, that is, they are lost."

Such actions are illegal and violate the rights and legal interests of citizens, since under no circumstances documents of a case, that are of official nature and serve as a basis for recording changes in the cadastral documentation, may be lost.

The Ombudsman considers that nothing can deny the right of the party that addressed the cadastre to obtain a certain certificate, in order to be able to smoothly provide further protection of constitutional and legal rights using all legal means allowed, and not be informed that "the case was lost."

#### MRTV RELEASES, PRO COLLECTS THE BROADCASTING FEE

The citizens and the Ombudsman have been informed by the services of PE Makedonska Radiotel-evizija (Macedonian Radio Television) that due to the existence of double indebting of members of the same household, they were deleted from the register of fee payers, that the issued decisions were cancelled and do not produce any legal effect.

In contrast to that, the Public Revenue Office (PRO) consistently submits new decisions for a broadcasting fee and simultaneously a procedure for forced execution of the cancelled decisions is being implemented.

This is nothing other than the roughest violation of the rights of citizens, their disrespect, maltreatment, harassment and unjustified causing of harmful consequences. Therefore, the Ombudsman recommended that PE Macedonian Radio Television and the Public Revenue Office, urgently coordinate each other and in the future in no circumstances it should be possible that the persons whose decisions for broadcasting fee were cancelled be subjected to forced collection of such unfounded and illegitimate debt.

# EMPLOYEES OF ONE INSTITUTION ASSIGNED TO ANOTHER INSTITUTION WITH A GENERAL ACT - ORDER

To three employees of Zatvor (Prison) Skopje, an Order, as an act for assignment to perform tasks and working duties in the Penitentiary - Correctional Institution Idrizovo was issued. Given that by means of an Order it cannot be decided on the individual rights and responsibilities of the employees, hence an employee cannot be assigned to perform tasks and working duties, the Ombudsman intervened, so that action for cancellation of the Order would be undertaken.

By Prison Skopje, the given intervention of the Ombudsman was partially accepted, since for two employees it was put out of force, whereas it is still valid for the third employee, although it is the same legal and factual situation.

# COOPERATION WITH THE OMBUDSMAN INSTITUTIONS IN THE REGION CONTRIBUTES TO FASTER AND EFFICIENT EXERCISING OF RIGHTS IN THE PENSION AREA

Having filed requests for exercising the right to family pension or a proportionate part of the pension, based on international and bilateral agreements, citizens face difficulties in the proceedings before the competent authorities. To overcome the problems and accelerate procedures the Ombudsman continually referred to the competent authorities in the country, but also to foreign authorities through the ombudsman institutions from other countries, so that citizens exercised their rights more easily and effectively.

# FOLLOWING THE SUBMITTED INITIATIVE ON AMENDING THE RULES FOR SUPPLY WITH THERMAL ENERGY THE REGULATORY COMMISSION IS SILENT

The Ombudsman observed that the disconnected consumers are obliged to pay an engaged power compensation (fixed part) of the fee for thermal energy even in cases where there is no registered consumption of thermal energy on the measuring device.

Namely, the suppliers strictly apply the provision of the Rules for Supply with Thermal Energy even in cases where there is one measuring point with multiple independent lines, that is, when one or more independent lines are disconnected from the heating system and the measuring device does not register consumption by the disconnected independent line. Because of this situation, the Ombudsman submitted an initiative on amending the Rules for Supply with Thermal Energy to the Energy Regulatory Commission.

The Ombudsman demanded amending of the Rules for Supply with Thermal Energy, as they relate the exemption from the fixed fee only to one metering device, regardless of the number of independent lines for which the consumption of thermal energy is registered on that measuring device.

The Ombudsman supported his actions by the fact that the entries in a single collective residential housing facility have separate heating installations and that in cases where it is technically feasible to cut off the delivery of thermal energy of one independent line and the consumption of thermal energy of the line disconnected from the system is not registered, it should also be intervened in the regulations and the fee should not only be associated with the existence of a single measuring device.

# SELECTIVE ACTIONS ARE NOT ALLOWED AND CITIZENS CAN NOT BE CHARGED FOR A SERVICE THEY DID NOT RECEIVE

Acting on complaints from citizens of Butelska Street -Skopje regarding the indebting by PE "Communal Hygiene" - Skopje, the Ombudsman found that they are charged for a service that they actually did not receive. Therefore, he demanded from PE "Communal Hygiene "- Skopje to release the citizens from the old debt, since the debt is for a period in which no service by the company was used, as well as correction of the bills, since the aforementioned street is a limit between the rural and the urban part of the Municipality of Butel.

The Ombudsman pointed out that citizens should not be put in an unequal position compared to other citizens that on such grounds receive reduced bills.

The Public Enterprise accepted all the remarks and suggestions of the Ombudsman and a large group of citizens from Butelska Street - Skopje were exempt from paying the old debt for a service they did not receive and their bills for collection and transportation of communal waste were reduced, as the bills in the rural areas.

# UPON RECOMMENDATION OF THE OMBUDSMAN A MEMBER OF A MUNICIPAL COUNCIL PROTECTED FROM DISCRIMINATION ON ETHNIC AND POLITICAL GROUNDS

An elected member of a Municipal Council filed a complaint to the Ombudsman, due to ethnic and political discrimination committed by the immediate superior of the public enterprise where he works. When it was acted upon the complaint it was concluded that the complainant was discriminated by the fact that he was not allowed to leave his workplace during the meetings of the Municipal Council.

The Ombudsman submitted a recommendation to the Director of the enterprise to eliminate any discrimination, by preventing the participation of the complainant in the work of the Municipal Council and for strict adherence to the prohibition of discrimination which is sanctioned by international and domestic acts. The recommendation was accepted and implemented, which was checked in a subsequent insight into the enterprise, and confirmed by the complainant, as well.

# UNPAID FINE FOR MISDEMEANOR REASON FOR REJECTION OF A REQUEST FOR RESIDENCE

Upon a complaint from a citizen of the Republic of Kosovo, the Ombudsman found violation of the right to legal residence in the Republic of Macedonia by the Ministry of Interior, specifically the authority responsible for foreigners.

Given that the reason for not issuing the residence permit is a determined and unpaid fine for committed misdemeanour by the competent court in Skopje, the Ombudsman submitted a Recommendation to the Ministry of Interior to adopt a decision for a temporary residence permit, because the payment of the fine is not a requirement for the residence under the Law on Foreigners, that is, enforcement /payment of the fine is not under the competence of the authority for foreigners, but of the judicial authorities.

Due to non-compliance with the provided Recommendation, the Ombudsman submitted a special report to the line minister, after which the complainant exercised her right, that is, the Public Security Bureau issued to her a permit for temporary residence as a foreigner, valid for one year.

# ETHNICITY AND POLITICAL AFFILIATION, SKIN COLOUR-MOST COMMON GROUNDS OF DISCRIMINATION AMONG MEMBERS OF THE ROMA COMMUNITY

The results of the survey "Aspects of Discrimination against the Roma Community and their Protection" show that according to the personal perception of the Roma community members the most common grounds of discrimination are ethnicity, skin colour and political affiliation. Personal and social status, gender and nationality are less represented. At the same time, the results showed the need for better promotion of the standards for protection against discrimination, as well as organising informative and education campaigns to raise the awareness among the citizens about the shapes and forms of discrimination.

# WHAT SHOULD A CITIZEN DO SO THAT THE INCORRECTLY PAID COURT FEES COULD BE RETURNED?

Namely, a citizen sued the Ministry of Finance, the procedure took several years and the citizen received a decision from the Administrative Court that the funds paid as a court fee for an appeal should be returned to their bank account. The Ministry of Finance appealed against the decision to the Supreme Administrative Court, which rejected the appeal, but the request for refund has still not been acted on, on the grounds that the decisions were not received.

According to the Ombudsman, any party, under no circumstances, must not be hindered in the exercise of the right that is secured by a valid and enforceable court decision, since the party has submitted all the evidence to the court, the court assessed them and following the proceedings, decided that her request was reasonable, and therefore she is entitled to refund.

This is not an isolated case, but a practice in the work of the Ministry of Finance.

# DUE TO INCOMPLETELY CONDUCTED CONSTITUTIONAL DECISION, CITIZENS BEAR HARMFUL CONSEQUENCES

The Association "ROMA SOS"- Prilep, submitted a petition to the Ombudsman stating that 50% of the unemployed persons and persons with lower incomes have remained without health insurance, since they have not filed a statement of income to the Health Insurance Fund, thereby explaining that citizens are confused and do not know if they should or should not submit such a statement to the Fund, as this requirement is unconstitutional for the Constitutional Court.

Upon the analysis of the legislation that governs this issue, the Ombudsman found that in November 2012, the Constitutional Court annulled a provision in the Law on Contributions for Mandatory Social Insurance, whereby citizens were required to submit a statement of income in a prescribed form, and the amendments to this Law in January 2013, envisaged again such an obligation for the citizens, except that the statement is filed in the current year for the net income realised in the previous year.

The Constitutional Court assessed that the obligation for filing a statement cannot be established to citizens, since such an obligation may be imposed only by the competent state institutions, that is the Public Revenue Office and its authorities and institutions.

The Ombudsman submitted a proposal to the Constitutional Court of the Republic of Macedonia for assessment of the constitutionality and legality of this legal provision, which again provides such an obligation for the citizens.



#### **PROTECTION OF HUMAN RIGHTS BY AREAS**

#### **SOCIAL SECURITY AND PROTECTION**

The number and content of complaints in the area of social protection in this reporting period confirms that the social and economic condition of citizens is unsatisfactory and the assistance that citizens receive is insufficient to meet their basic existence needs. On the other hand, there is a slow realisation of the rights of citizens in the area of social protection and security, due to untimely action by the competent authorities.

In 2013, the largest number of complaints concerned the rights to financial assistance for social protection, inadequate and untimely treatment of the centres for social work, delaying of the procedures and adopting decisions after the legally envisaged deadline. Citizens exercised their rights only after the intervention by the Ombudsman, but the conclusion remains that the competent centres for social work did not decide within the legal deadline, which causes a feeling of disrespect among citizens and doubts about the adequate deciding of the authority.

The Ombudsman considers that the competent authorities, in this case the centres for social work, are obliged to respect the rights of citizens and to decide upon their requests within the legally prescribed period of 60 days by adopting an appropriate legal act. Hence, the justification of the centres for social work that they have additional responsibilities and that the professional associates are occupied with new tasks is unreasonable, nor the cause -increased workload and inadequate working conditions of the centres for social work is acceptable.

Acting on complaints by citizens, the Ombudsman established an occurrence (especially typical of the centres for social work of Kisela Voda and Karposh) failure to provide the appropriate professional help to the citizens, insulting behaviour by officials and not giving an archive number for submissions received, so that unaware/ uninformed citizens could not prove that they were in the centre and applied for achieving certain social protection rights. There were cases when citizens were put in a position to wait for a long period to obtain a decision by the competent centre, even for years, so that finally they would receive an answer that their documentation was incomplete or that they did not submit an application, and they, being unable to prove the contrary, were forced to reinitiate the procedure for the exercise of a certain right.

Due to such treatment of the centres, citizens question the objective operation and are unsatisfied with the treatment of professional associates towards them regarding the exercise of the rights of social protection. Therefore, the Ombudsman asked the competent authorities to undertake measures for proper implementation of the laws in terms of exercising the rights, and proper and professional treatment by the staff at the centres. In addition, he also informed the Director of the PI Inter-municipal Social Work Centre of the City of Skopje and the Ministry of Labour and Social Policy thereof and recommend action to be taken to inform citizens about their rights, as well as training, or education of officials for the purpose of timely, efficient and professional assistance to citizens in exercising their rights under the Law on Social Protection and the

principles of the Law on General Administrative Procedure.

The complaints of the persons requesting the right to remuneration for assistance and care by another person, and permanent welfare were also present. In most cases, the Ombudsman established exceeding of the deadlines for making decisions on these citizens' rights, as well.

The centres used the delay of the findings by the Expert Commission for providing diagnosis, evaluation and opinion of the need for assistance and care by another person, as justification for the untimely decision. Regarding different cases in the immediate insights, it was confirmed that the delay is due to the inefficiency of the professional associates or the legal office, which although the case included all required documents along with the findings of the expert commission, delayed the procedures for decision-making and decisions were usually adopted only after citizens demanded protection from the Ombudsman.

Problems were also noted in relation to the payment of conditional compensation of recipients of social welfare, whose children are students in secondary education, as well as adopting a decision and payment of the compensation for consumed electricity.

Namely, due to omissions of the authorities, or due to insufficient electronic connectivity and functionality of the new manner of operation of the centres, although students fulfilled the condition for attendance in classes, this compensation was not paid. After the intervention of the Ombudsman and obtaining the necessary data from schools, families realised their right in an appeal procedure. The Ombudsman pointed out that by the delay in payment, the intended purpose of these measures to alleviate the situation of social risk in which citizens who are beneficiaries of the right to social welfare are found, is not achieved.

Regarding the right to one-time financial assistance, the Ombudsman established violation of citizens' rights, due to the late payment of one-time financial assistance. Although the competent Centres for Social Work recognise the right, the citizens did not receive funding for one-time financial assistance. In addition, the Ombudsman concluded that the Ministry allocated funds for payment of this assistance, but according to the competent Centres for Social Work, these funds are often not sufficient for payment of the assistance for all applicants of one-time financial assistance, so that they were forced to wait until the following allocation of funds.

According to the Ombudsman any delay in the payment, complicates the situation of this vulnerable category of citizens even more and it should be paid at the time when the citizen is in a difficult situation, so that the purpose of the aid is not missed. In this context, the Ombudsman suggested that the Ministry of Labour and Social Policy as a right holder should take care of the timely payment and undertake measures for timely payment of the aid, in order to achieve care for prevention and overcoming of the social risk of these citizens.

From the actions of the Ombudsman, it can be concluded that the citizens as beneficiaries of funds from social protection, most frequently face problems in achieving the rights to social welfare, permanent financial aid and the right to assistance and care by another person.

Observing and identifying the reasons for the more difficult realisation of citizens' rights and for the purpose of defining the conditions (material, staffing and technical capacities), the manner of operation and preparedness of the centres for social work for timely and quality deciding on citizens' requests, the Ombudsman conducted a research and submitted a questionnaire to all the centres for social work in the Republic of Macedonia and in some of the Skopje centres had a direct insight and conversation with those responsible for the exercise of these rights.

From the analysis of data obtained from the centres for social work and the visits in some of the Skopje departments for social work, inter alia, he noted that the centres are not properly staffed and operating without the necessary material and technical conditions. Some of the centres are in poor condition, and as a result, citizens face difficulties in exercising their financial rights of social protection, obtain the decisions of the competent centres with a delay and are often not satisfied with the attitude of the staff, and the quality of the decisions adopted upon their requests for achieving certain social protection rights.

For the purpose of overcoming the established weaknesses, the Ombudsman recommended undertaking specific measures by the centres for social work and the Ministry of Labour and Social Policy, so that citizens as beneficiaries of social protection rights could efficiently exercise

the rights stipulated by the Law on Social Protection and by the respective bylaws.

Acting on the complaints of the homeless, the Ombudsman found that they are exposed to different risks to their health and survival and face difficulties in exercising their rights in all spheres of social life.

The Department for Protection of Children's Rights and Rights of Persons with Special Needs with the Unit for Non-discrimination and Adequate and Equitable Representation within the Ombudsman's Office during June 2013 visited the Children's Hostel "Mladost" – Shelter Centre in Chichino Selo, which houses persons under the act of the Public Institution – Inter-municipal Centre for Social Work of the City of Skopje. The observations of the visit and the conversations with the residents in this shelter centre, undoubtedly point to the conclusion that the Shelter Centre in Chichino Selo functions under minimum standards. The general impression is that it is not done enough to organise the life and stay of the residents in this centre, according to the basic human needs and standards.

#### Conclusions

The social status of citizens has still not improved, and the measures of social support provided insufficient realisation of social security and protection of every citizen.

Citizens as beneficiaries of social protection rights are faced with inefficiency, inflexibility and lack of transparency in the procedures, but also with misconduct by officials.

The majority of centres for social work lack qualified personnel, material and technical conditions and standards for organisation of the operation in centres for social work.

#### Recommendations

It is essential that competent authorities change the behaviour and conduct and proceed in a responsible, conscientious and timely manner in adopting decisions regarding the rights of citizens.

Objective and proper establishing of the factual situation in relation to the legal requirements and the real need of the citizens of a particular type of social welfare with a clear explanation of the reasons for grant or refusal of citizens' requests.

Renovation, repair and proper equipping of the centres for social work, improvement of the working conditions for the smooth realisation of citizens' rights of social protection.

#### PENSION AND DISABILITY INSURANCE

Citizens still realise pension and disability insurance rights with difficulties and in long-term procedures. In addition to the delaying of the proceedings before the second instance authority, in this reporting period citizens were facing difficulties in exercising the right to disability pension, right to family pension, especially regarding the conditions for the exercise of this right, and complaints were also filed due to failure to exercise the right to age pension, solving problems with years of service, abolition and restriction of the rights to pension and disability insurance and other individual rights.

The long-term procedures for deciding on appeal before the State Commission for deciding in second instance in an administrative procedure and labour relation procedure were particularly present in this reporting period. The Ombudsman demanded answers on the course of the procedures on appeals of citizens, pointing out that the legal deadline for deciding on appeals should be complied with. However, in most cases the responses submitted to the Ombudsman

were more formal than substantive. Namely, the answer that "the appeal procedure was in progress and would be acted upon, as soon as possible, bearing in mind that cases were acted upon chronologically" does not give a clear picture of when it could be expected that the competent authority would decide on a certain request, since "as soon as possible" may be immediately or after a few days, "acting upon in chronological order" suggests a procedure that will last for several months, which often means deciding upon expiration of the legal deadline.

The acting upon cases showed that the delay in the proceedings by the second instance authority is often due non-submission of the documents on the case, as a result of which the Ombudsman intervened to the local units of the Pension and Disability Insurance Fund , indicating a violation of citizens' rights. This problem has not been fully overcome yet.

In terms of exercising the right to a disability pension, citizens again expressed dissatisfaction with the decisions of the competent commissions for evaluation of the work ability that is they believed that the factual situation was not properly and objectively established. The Ombudsman informed the Pension and Disability Insurance Fund thereof and requested that upon deciding on the rights of citizens the factual situation is properly and fully established, that is objective and legally established findings are brought.

Although the law stipulates an obligation for control examination regarding the temporary disability pensions, citizens expressed dissatisfaction with the decision of the competent authority in accordance wherewith the right to a disability pension ceases after the conducted control examination. Given that the control examination of the temporary pension is provided by law, the Ombudsman does not have the possibility for intervention, except in cases of temporary pension due to disease, since the legislation precisely defined them and they are not subject to control examinations and the adopted decisions on achieved right to disability pension cannot be changed.

Again, although in a much smaller number, petitions for exercising the right to a disability pension were submitted, due to the delay in the proceedings and in some of these complaints it was established that the cases were found in the Ministry of Interior in order to be examined and processed, because of suspicion that a crime was committed by presenting counterfeit and suspicious documentation so as to exercise this right, or suspicion that citizens paid bribes to exercise this right. The Ombudsman urged acceleration of the proceedings and indicated to the authority of interior to return the cases for further proceedings to the competent authority, if it was not determined that there are grounds for a lawsuit.

According to the Ombudsman, citizens are insufficiently familiar with the legislation, so that proper education on the manner and conditions for the exercise of a certain right, and the actions of the deciding authorities is necessary. This fact particularly resulted from the requirements of citizens in terms of the right to family pension and their dissatisfaction due to the increasing of the age limit for the spouse/ widow/widower that is the conditions for exercising the right to family pension have changed, so that they were unable to exercise this right. In such cases the Ombudsman, not initiating a procedure, informed the complainants of the manner of exercising the right to family pension and also informed them about the legislation and their compulsion.

Regarding the complaints about the right to age pension, the Ombudsman intervened to expedite the proceedings, after which citizens exercised their rights. Exercising the right to age pension in most cases was disabled due to unregistered or incorrectly entered data in the main records, untimely paid contributions, or because of failure to submit the necessary information to the Pension and Disability Insurance Fund by employers.

In relation to the violation of the rights of this sub-area, the Ombudsman suggested that the Pension and Disability Insurance Fund should undertake the legal measures for the collection of contributions, which was followed by blocking of the bank accounts of the employers in debt, and citizens exercised their rights. However, there are cases when the collection of contributions cannot be implemented due to liquidation of the company or due to open bankruptcy proceedings.

Citizens have also complained due to the inability to exercise the right to a pension as a result of unregistered years of service, even though the contributions for pension and disability

insurance were paid. The Ombudsman found cases where the years of service were not recorded due to lack of adequate evidence that the contribution was paid for the entire period in which the citizen worked, or the required documentation and forms were not submitted by the employer.

In addition, citizens also faced problems in exercising the right to a pension based on international and bilateral agreements, especially in achieving the proportional part of the pension or retirement procedures for years of service realised in the previous republics of the former Yugoslavia. In the cases when proceedings were postponed since the citizens did not submit the necessary documents, the Ombudsman initially informed the parties of the manner in which they should act and submit the required documentation, then the interventions continued before the body, in order to decide on the request or pay the already earned pension, within the legal timeframe.

In terms of exercising the right to a pension from other countries in this reporting year as well, the good cooperation with the ombudsman institutions from other countries, especially with the former Yugoslav republics continued, which resulted in speeding up the procedures and exercising the rights in the pension area.

#### Conclusions

Citizens exercised their rights from pension and disability insurance slowly and with difficulties, because of the unjustified delay in the proceedings before the competent authorities, particularly in procedures for deciding on appeals.

Responses to the requests of the Ombudsman by the authorities are often formal and not substantive and relevant.

#### **Recommendations**

Deciding of the competent authorities upon citizens' requests in the legal deadlines, speeding up the procedures on appeals of citizens for faster and more efficient realisation of citizens' rights.

The competent authorities should submit substantive responses to the requests of the Ombudsman for the smooth realisation and protection of citizens' rights in the pension area.

#### **HEALTH INSURANCE AND HEALTH CARE**

The right to health care, although it is one of the fundamental rights of citizens is still exercised with difficulties and followed by numerous problems. In comparison with the previous year, the number of filed complaints has been slightly decreased. However, the problems of the citizens have neither been reduced, nor altered and any significant changes in the access to the rights of health care have not been observed, but also in respect of the rights of health insurance.

The untimely deciding upon the requests of citizens remains to be one of the most common problems, especially by the Minister of Health as a second degree authority and there is also growth in the complaints relating to the delay of the proceedings before the Health Insurance Fund.

In this regard, the procedures upon requests for reimbursement of funds for medical services covered by the Fund were often delayed, and the citizens are facing problems in securing the rights of compulsory health insurance, prompt use of health services and co-payments for certain health services, or problems in exemption from payment of participation. Citizens also requested protection regarding irresponsible, incompetent and low quality treatment, and there were also complaints in terms of exercising the right to treatment abroad. Although within a smaller scope complaints were submitted on failure to exercise the right of recognition or pay-

ment of compensation due to pregnancy, childbirth and motherhood, as well as compensation for absence from work due to illness or injury.

Actions upon complaints on delayed procedures showed that authorities act untimely and inaccurately on the requests of citizens, especially in appeals, and the legal deadlines for acting on the judgments of the competent court are also not observed.

For the purpose of overcoming this problem, the Ombudsman despite the suggestions to the Ministry of Health, also submitted special reports to the Minister of Health, and practiced frequent and immediate insights and discussions with the responsible officials, and informed the Government of the Republic of Macedonia due to not acting on his requirements that is, disrupting the proceedings.

After numerous interventions by the Ombudsman in the second half of the reporting period, some of the Ombudsman's requests were acted upon, that is, adequate acts regarding the requests and appeals of citizens were adopted, but the problem has still not been completely solved.

The Ministry of Health still has unresolved cases, especially cases for which there is a verdict of the Administrative Court of the Republic of Macedonia, and the Ministry indicates the failure to deliver the documents on the cases as a reason for not acting thereon.

There is rising number of complaints of citizens regarding the delay in the proceedings before the first instance authority, that is, the regional offices of the Health Insurance Fund of the Republic of Macedonia.

The Ombudsman found that often after the Ministry of Health or the Administrative Court brings a decision for the case to be returned again for consideration and decision by the first instance authority, the authority does not adopt a new act for a long time or does not act in accordance with the directions of the court verdicts. In numerous complaints the Fund decides again in the same manner on the grounds that the facts were established, and the Fund preserves the same position.

In this regard, the Ombudsman pointed to the undisputable effect of the final court judgment and the obligation for all legal and natural persons to comply with the court's decision under the threat of legal sanctions. In addition, the Ombudsman advised citizens in appeal procedures to seek amending, repealing or annulment of the decision of the Fund, or adoption of an act that corresponds to the actual situation.

The requests of citizens for exercising the right to reimbursement of costs for treatment in private health facilities were refused, because the service was provided by a health facility that does not have a contract with the Health Insurance Fund. However, those who used services in health institutions with which the Fund had concluded a contract realised their right to reimbursement after the intervention of the Ombudsman.

A significant number of complaints were filed because of the limitation of the rights to compulsory health insurance. Problems in this regard occurred with the introduction of a new system for data processing, that is, the electronic health cards, especially due to the lengthy procedures for issuing electronic health cards, lost cards, technical errors in the printing of the cards, etc. Citizens were forced to once again repeat the procedure for issuing an electronic health card. Citizens also sought advice from the Ombudsman in terms whether they were obliged to have an electronic health card, or could use blue cards as well, that is, whether the electronic card replaces the social security card. After the intervention of the Ombudsman in the procedures for issuing electronic cards, citizens realised their right.

The Ombudsman in this period, as well, received complaints from NGOs for protection of the rights of citizens. Namely, the Association for Health Education and Research- HERA demanded the protection of the rights of women and girls from the Municipality of Shuto Orizari due to unlawful payment for health services, which according to the current legislation are free, and payment of a sum higher than the legally projected participation for services for which only participation (contribution) is to be paid. The Roma Association for Multicultural affirmation - ROMA SOS, Prilep, requested an intervention due to the obligation of citizens to submit a statement of revenues to the Health Insurance Fund, the contributions for which are paid from the Budget of

the Republic of Macedonia. As a result, approximately 50% of the unemployed persons in the territory of the Republic of Macedonia, most of whom are Roma, failed to extend their right to health insurance, while the Association for Protection of Women and Children -LIL requested protection of the citizens, because they were required to pay a deposit for medical treatment at one state clinic.

Although the Ombudsman did not receive specific complaints submitted by citizens for these problems, the Ombudsman considering the fact that these problems affect a larger group of citizens, addressed the competent authorities with a request for undertaking measures to establish the factual situation and sanction the possible unlawful conduct. In this context, based on the right to free services at registered doctors, he addressed the Control Department at the Health Insurance Fund of the Republic of Macedonia with a request for conducting a supervision of the stated health facilities and undertaking legal measures against registered doctors who act against the law, that is charge the insured persons for their examinations. The Control Department imposed appropriate contractual penalties in cases where irregularities in the operation of the health facilities were noted.

In order to terminate the obligation of the citizen to submit a statement of revenues since the Public Revenue Office, that is, the competent authorities and institutions should have such a control and insight into the realised revenues, and they should have a legal obligation to submit evidence of such type where necessary, the Ombudsman suggested that the Ministry of Finance, the Ministry of Health and the Health Insurance Fund of the Republic of Macedonia should correctly and fully implement the decision of the Constitutional Court in the legal amendments. In addition, the Ombudsman submitted a Proposal for assessing the constitutionality and legality of the articles of the Law on Contributions for Mandatory Social Insurance which envisage such an obligation for the citizens to the Constitutional Court of the Republic of Macedonia.

The Ombudsman established a violation by a state clinic due to its obliging the citizens to pay a deposit as a necessary condition for hospital treatment in the clinic even before they use the health service. Therefore he asked the PHI University Clinic for Surgical Diseases "St. Naum Ohridski" not to condition the patients to pay a certain amount as a deposit before they can be medically treated, that is before they use a certain medical service. By a decision of the Management Board of the clinic the deposit was revoked and citizens were able to freely exercise their right to hospital treatment.

Citizens were facing problems with the regular treatment and healing of certain severe diseases, due to lack of medicines, lack of necessary equipment or because of bad and inadequate conditions for treatment and healing.

Regarding the right to treatment abroad, the number of complaints is small, and actions upon them resulted in the conclusion that there were long decision-making procedures and not signing of the proposal for treatment abroad by doctors, although there are no conditions for adequate protection in the Republic of Macedonia. The suggestions of the Ombudsman for expedition of the procedure and establishing the factual situation, and if it is determined that the treatment cannot be provided in the Republic of Macedonia, medical treatment abroad should be provided, were partly accepted.

This year the number of complaints for violation of the right to recognition or payment of a salary compensation during the leave of absence due to pregnancy, childbirth and motherhood as a result of delay in the proceedings for recognition of this right, incorrect calculation of the amount of the compensation and non-payment of the compensation due to unpaid contributions, significantly reduced. In this regard, in relation to the amendments to the Labour Law envisaging that employed women with pathological pregnancies receive 70 per cent of their salary during their maternity leave, and not 100 per cent of the salary, as is paid during maternity leave, the Ombudsman initiated a proceeding on its own initiative, to protect the rights of the future mothers and demanded from the Ministry of Labour and Social Policy, the Ministry of Health and the Health Insurance Fund that pathological pregnancy should not be treated as a disease, and according to that such would be the compensation for maternity leave. Furthermore, regarding the pathological pregnancy he also sought the opinion of the Macedonian Medical Association.

Citizens have also complained of inadequate, incompetent and inferior treatment, often

with deadly consequences. Given that the Ombudsman is not qualified to assess whether in the specific cases the medical protocols have been observed, he addressed the Ministry of Health, the State Sanitary and Health Inspectorate and the Medical Association of the Republic of Macedonia and demanded re-examining of the cases, establishing of special expert commissions that will monitor the work of the stated doctors and undertaking appropriate legal action according to the information obtained.

In this context, in one of these cases for a patient at the PHI University Clinic of Haematology, the Ombudsman found performance of an activity by a health care worker who has not renewed his license. Only after the intervention of the Ombudsman for the specific case, the officials at the clinic did not allow the health care worker to continue operating without a license. The Ombudsman asked the Minister of Health to undertake measures for the purpose of overcoming the established flaws in the communication and improvement of the cooperation between the competent authorities, in order to be timely informed about the (non)extension or non-possession of a working license of health care workers, so that in the future patients would not receive health care services by a doctor with an expired or no appropriate license for medical practice, which is contrary to the Law on Health Care.

The programme for providing funds for hospital treatment without charging participation allows pensioners with a pension lower than the average one in 2013 in the Republic of Macedonia to exercise the right to relief from participation. However, in practice not all citizens - pensioners could use this right.

The Ombudsman concluded that due to different interpretation of the programme only pensioners receiving age pensions were released, that is the Ministry of Health provided directions only for exemption of these users.

Following the Ombudsman's suggestions this position changed and all pensioners with a pension lower than the average in the Republic of Macedonia for 2013 were included in the programme for providing funds for hospital treatment without participation. Namely, cases for hospital treatment in hospital healthcare facilities in the Republic of Macedonia, immediately after the acute illness, condition and injury or due to deterioration of a chronic illness are exempt from these costs, but not the cases of daily hospital treatment (daily hospital), medical rehabilitation (rehabilitation procedures) and cases of accommodation in a gerontological institution. The Ombudsman found that users of these services should be released based on the programme, but the Ministry maintained the position that the daily hospital treatment (daily hospital), medical rehabilitation (rehabilitation procedures) and cases of accommodation in a gerontological institution are not exempt from participation fee.

#### Conclusions

Untimely actions of the Ministry of Health and the Health Insurance Fund on the requests of citizens.

Dissatisfaction of the citizens with the manner in which they are treated in health care facilities and doubt in the professional, quality and appropriate treatment by health care workers.

#### Recommendations

The Ministry of Health should create authentic conditions so that citizens will be able to smoothly and promptly benefit from their rights to health care and insurance by respecting the principle of diligence, efficiency and cost-effectiveness.

To improve the relationship citizenhealth care worker, or institution, in order to strengthen the trust of citizens in the treatment and services from health care workers, for the purpose of quality and timely achieving of the right to health care and health insurance for every citizen.

#### **CHILDREN'S RIGHTS**

#### **Introductory remarks**

The best interest of the child is a key guiding principle for protection of children's rights in the family, health care institutions, social institutions and other bodies and institutions that should take care of children and their rights. Nevertheless, the best interest of children is often more declarative than an essential guiding principle and the participation of children and their involvement in making decisions affecting children, their rights and interests, is not yet satisfactory.

The Ombudsman in the contacts with children and the direct conversations about their rights and obligations, as well as mechanisms for protection of the rights of children, established a certain progress in 2013, which is confirmed by children's reports of violation of a certain right in the family or school. This means that children gradually become aware that they are holders of rights and obligations, but still do not have sufficient skills and knowledge to identify violations to the rights and are not sufficiently encouraged to report such violations to the authorities.

On the other hand, the lack of willingness of those making decision for children and caring for their best interest to listen and pay attention to the views of the child, whether it is a right in the family, education, health, social protection etc. is concerning, leading to the fact that proper attention is not being paid to the position of children by entities that care about the rights and best interests of the children.

### Rights of the child in the family

The Convention on the Rights of the Child emphasises the social care for the family and social activities to provide real protection of children's rights. These rights are particularly vulnerable when parents, governed by their own interests and problems neglect the child and their obligation to care for its proper growth and development, even more when in conditions of mutual parental discord and disagreement they use the child as a means of meeting their requirements or revenge to the partner.

During this reporting period as well, in the procedures for protecting the rights of the child in the family usually parents are complainants, and dealing with complaints often confirms that they themselves inadequately performed their parental duties and responsibilities and that they contribute to a violation of children's rights, especially in the area of family rights.

According to the Ombudsman, the contact with the child is the starting point in the efforts to promote its rights. We should not discuss important issues related to children with no organization for their participation or at least consider their participation, even in cases when it comes to family relationships or parent- child relationships.

The actions of the Ombudsman in the cases of violation of children's right to personal relations and contacts with the parent with whom they do not live, were aimed at respecting the rights of the child to maintain continuous personal contact with both parents on a regular basis, except if it is not in the best interest of the child.

The centres for social work, as competent authorities to protect the rights and best interests of the child again failed completely and without problems to protect the child from conflict between parents and help it to be a child of both parents, and not an instrument to clear disagreements and problems between former spouses or extramarital companions. The practice of the Ombudsman confirmed that regardless whether the right to personal relations and contacts of the child with the parent with whom it does not live is from a marital or extramarital union, the child is often unable to keep contact with the parent, and often, due to the long non-compliance

with the decision on meetings, the child has contact resistance and refuses to see the parent with whom it does not live. Such cases once again confirm the need for timely and expedient handling of professional services, which through the system of assistance and protection of the child and parents need to provide quality advice and counselling work, applying interdisciplinary teamwork.

Undisputed are also the numerous cases of child protection in which the competent authorities in the proceeding are governed by the legal procedures and administrative measures, whereby they are often not sufficiently coordinated and are inefficient. This is particularly evident in terms of non-compliance with the decision on meeting or entrusting the child, and the inability of the centres for social work to take away the child from one parent to give it to the parent who by the decision of the centre or the court is a determined guardian of the child.

The interventions of the Ombudsman, in all these cases and the suggestions to the competent centres were a reminder that the child has the right to care and respect, and the principle of the best interests of the child should not be forgotten in any moment by those who decide on the faith of the child and its relationship to its parents and other family members. Also, to work with the parents and the child/children, not to abuse their lack of maturity and to respect the right of the child not to choose one parent, but to have the right to love its parents and not be found in a situation where it would feel guilty, because its parents no longer live together.

When it comes to the rights of the child in the family, the obligation to care for the rights of the child of the parents, centres for social work, all other authorities and institutions is undeniable, including the role of the Ombudsman in cases where the competent authorities do not undertake appropriate measures.

On the other hand, in dealing with requests in the area of family rights, the centres for social work should be more transparent and improve the attitude towards citizens who complained about the inefficient professional teams, inappropriate approach and inefficient action to regulate family relationships between children and parents, and doubted the expertise of the team acting on the child's right to maintain personal contact with the parent with whom it does not live.

In these cases, the Ombudsman, through the Ministry of Labour and Social Policy sought implementation of professional supervision by the Office for Social Affairs on the work of the expert teams, which was always accepted, whereby the Office, with appropriate instructions guided the competent centres how to act and in which part of their work to strengthen their capacities and activities.

In several cases, the Ombudsman intervened on the exercising of the right to personal relations and direct contacts, in accordance with to the Hague Convention on civil and legal aspects of international child abduction, when the child or parent lives abroad. He also indicated that there should be neither impediments, nor problems in maintaining contacts through the modern information technology, so that the child could remain in contact with its immediate family, who are important for its correct psychological and physical development, and upon arrival of the child or parent in the Republic of Macedonia, meetings should take place in accordance with the Decision of the Centre for Social Work.

The Ombudsman considers that it is necessary to monitor the family in the exercise of parental rights or child care, and collaboration with schools, health care institutions and social protection institutions that should promptly refer the parents alone or together with the children to a treatment in a counselling or other medical facility, especially in cases of dysfunctional families, or families that are at social risk. In this regard, the Ombudsman recommended undertaking preventive actions and measures by the centres for social work, cooperation and coordination of the activities with other institutions, in order to strengthen the parenting capacity and raise the awareness of the responsibility of the parents for their care of the child and monitor the compliance with the measures adopted by the Centres for Social Work.

# Domestic and other violence against children and violence among children

The protection of the rights of citizens, including children from all forms of violence and reducing violent and aggressive behaviour in youth was also present in 2013. Although the Convention on the Rights of the Child and the domestic legislation prohibit domestic violence, and the state undertakes measures for protection against all forms of violence and abuse, children are again victims of violence in the family, school, and the violence among children was also not excluded.

The Ombudsman found that there is insufficient capacity and willingness of the authorities and institutions to efficiently and effectively prevent and provide protection of children from all forms of violence, as well as protection from domestic violence, and it was also established that there is a need for a serious position, planning activities to prevent violence among children, which was again typical of the previous year.

In light of the aforementioned, citizens despite submission of complaints, often by telephone or in person by visiting the institution, sought advice for protection against domestic violence, as well as a manner to act in cases of violence by close relatives or family members. In several cases, the Ombudsman after prior consent of the victim, spoke to the centres for social work or police stations where the cases of violence had been reported and demanded undertaking measures to protect the rights of persons in the family where violence is done, and implied strict adherence to the Law on Family regarding the proposing of interim protection measures against domestic violence.

In that manner he also acted to protect the child from violence that in this reporting period directly or indirectly arises as a victim in the family, where the mother and less frequently the father reported violence. The Ombudsman intervened for accommodating the victims in the Centre for Victims of Domestic Violence, or in a Shelter Centre, pointing out that there is a need to apply professional, advisory and counselling interdisciplinary teamwork to overcome the effects of violence on the victim.

Besides the remark regarding the capacities and willingness of the competent Centres for protection of children from domestic violence, dealing with complaints on this issue shows that the centres for social work do not always act promptly and do not always undertake appropriate measures to ensure real protection of the child from further domestic violence, which means that effective treatment is needed, including in relation to giving a proposal for pronouncing temporary measures.

On the other hand, the complaints of physical or psychological violence against children by teachers and teacher misconduct are concerning, which affects the development and behaviour of children.

The Ombudsman despite form the school requested from the State Education Inspectorate or the authorised education inspector of the relevant municipality to undertake measures, so that education could be directed toward the development of the child's personality and its mental and physical abilities, taking into account the respect of the personality and dignity of the child, which naturally leads to the need for the institutions, services and facilities responsible for the care and education of children, among other things, to take into account the appropriateness of the staff working with children. Noting that the child must not be subjected to torture or other cruel, inhuman or degrading treatment or punishment and the obligation of undertaking measures to protect children from all forms of physical and psychological abuse, other violations and abuses, the Ombudsman requested that in undertaking measures for the implementation of school discipline the person and dignity of children should be respected. In the majority of complaints, the competent inspection authorities did not find physical or psychological violence against children that is teachers were either warned or received disciplinary punishments for violating the labour discipline, but not for violence against children.

In this reporting period, the children themselves called and submitted complained to the Ombudsman about inappropriate behaviour by individual teachers and following the undertaken

measures the problems were solved, that is, the teachers changed the attitude towards the children and the children were satisfied with the way they were treated at school. It needs to be mentioned that there are Children's Ombudsmen in some primary and secondary schools, who encourage children to report any violation of their rights by school employees or the family, and also personally report violation of the rights of children to the Ombudsman.

Considering the events in schools, conflict and physical fights between children or with people outside the school, the Ombudsman, acting on petitions or on his own initiative regarding these problems, suggested that there is a necessity of undertaking appropriate measures for the security to be justified, that is the engagement of the security company to comply with the needs of students and other school employees, for the purpose of greater safety and security in schools. The Ombudsman due to the enhanced protection and safety of children during their arrival and stay in school, pointed to the need for undertaking appropriate measures, that is greater and meaningful control of everyone that enters the school, in order to prevent incidents that threaten the security and life of students in schools.

The Ombudsman with great care and seriousness acted on his own initiative on petitions for physical fights between students, mostly outside of the schools, and intervened directly through lectures and workshops in schools where violence occurred, in order to reduce the tense atmosphere and indicate the positive values and ways of communication among peers in age. Given the fact that fights between students in schools still occur, the Ombudsman highlighted the need for action by all actors in the society, with a view to preventing and resolving conflicts and intolerance manifested among children and taking extensive and promotional activities for the protection of children from all forms of violence.

# Rights of persons/children with disabilities and marginalised groups of children

The Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities identifies and defines the human rights of persons/children with disabilities on an equal basis throughout the world. By the ratification of these conventions, Republic of Macedonia undertakes to create conditions, to enable equal treatment and conditions for a dignified life for persons/children with disabilities, by encouraging self-reliance and facilitate the active participation of the child/person with disabilities in society.

In the practice different terminology is still used: invalids, people with a handicap, people with mental and physical impediments in the development, people with special needs, which suggests the need for unification of the terms used in the legislation and practice in the Republic of Macedonia.

The Department for Protection of Children and People with Disabilities, in 2013 continued to monitor the situation with the exercise and protection of the rights of persons/children with disabilities, and by this group of citizens the Ombudsman has been recognised as a mechanism for protection of rights, as confirmed by the submitted complaints, but also by the personal addresses of persons with disabilities to the institution.

Most frequently they complained about the right to an inclusive education for all children, with an emphasis on children with disabilities, the right to housing of persons with disabilities in social facilities for care and protection, rights to social protection, prolonging of the proceedings before a second degree authority on realisation of the rights of health care, non-acting on requests for exercise of rights of persons with disabilities, as well as complaints about late payment of return on contributions for self-employed disabled person.

According to the Ombudsman, education and rehabilitation programmes are of great importance for children/people with disabilities and can certainly contribute to improve the ability and independence of these individuals. It is important to recognise and overcome all obstacles and conditions that impede the full realisation of the rights of persons with disabilities.

The findings of the Ombudsman and the practice, in terms of the right to education, confirm that the marginalisation and exclusion from education is not a result of the inability of children/people with disabilities to learn, but there is a problem with the present under-trained teachers and lack of adequate access to classrooms. Understanding of disability from the perspective of human rights is advanced thinking in which children/people with disabilities are not seen as an object for who or on whose behalf others decide, but they themselves are the bearers of rights and their involvement in the community can only be a positive step for the development of the society in general and nothing else.

This reporting year, the Ombudsman helped individual citizens - children/people with disabilities in the exercise of a particular right in the area of education, health care, social protection etc.

The Ombudsman in order to monitor the condition of the exercise of the right to education of children with disabilities and the grounds for their enrolment in special schools, conducted a research in the special primary and secondary schools. For this purpose, the Ombudsman submitted a Questionnaire to PS "Idnina" - Skopje , PS "PhD Zlatan Sremec" - Skopje, PS "St. Kliment Ohridski" - Novo Selo, PS "Maca Ovcharova" - Veles, the state high school "Iskra" - Stip and the state high school "Naum Ohridski" - Skopje, and also performed direct controls of the majority of schools, talking to teachers (defectologists, pedagogists, social workers) and reviewed the documentation of students in the respective schools.

Generally, the number of students in special primary and secondary schools belonging to the Roma ethnic community, for whom three years ago the European Commission against Racism and Intolerance (ECRI) issued a report that they are significant in number and enrol in special schools, although they are not with such a categorisation, has decreased. The Ombudsman did not find this year that children enrolled in special schools are without adequate findings and opinion of the competent authority, but in the conversation, the officials of the schools did not want to resort to commenting on the basis of the issued findings.

According to school data, many children in special schools for children with disabilities have mild impairments, and despite the findings upon registration the parents are required to give a statement that they agree that their child enrols in a particular special school. The fact that students do not always complete their education in these schools, particularly due to seasonal work, underage marriages, going abroad, and schools do not have the information and data on whether and how many children who previously attended the special school, and in whom no developmental impairments were found were included in regular education, is concerning.

The Ombudsman believes that children with special needs, depending on their disability, should be allowed to be enrolled in regular education and have the same treatment as other children, without any discrimination whatsoever and without prejudice to be accepted from the community and be provided with conditions for regular school attendance, using professional help from professionals to master the material, according to curricula tailored to the needs of children.

On the other hand, the Ombudsman found that people who are deaf and with impaired hearing also have difficulty in exercising the rights, especially regarding the use of sign language, due to the insufficient number of trained sign language interpreters. He informed the Ministry of Labour and Social Policy of the above, indicating that it should stand for inclusion, promotion and full enjoyment of human rights and freedoms, respect for the dignity of these people, without discrimination based on disability.

In addition, the Ombudsman concluded that these persons face difficulties in exercising their right to work, and certain conditions continued from the previous year. In this context are the complaints from people with disabilities who are self-employed, and to whom the institutions do not return their contributions in a timely manner.

Compared with the previous year, the situation has also not improved for the marginalised groups of children, as is the case with the children of homeless families, accommodated in the centre of homeless people in Cicino Selo (Children's Hostel "Mladost").

The Ombudsman, acting on complaints from citizens accommodated in this centre, performed a direct insight into the Shelter Centre, whereby he found unsuitable living conditions, especially for children that with their parents reside in the facility. Children live in conditions that

are not appropriate for their development (ruined, poorly lit rooms, the shed accommodating them are without doors, windows, and the food they get is not diverse and is susceptible to deterioration, due to lack of a refrigerator for storage of food during the summer period), which in turn adversely affects children's growth and development. Due to the fact there is no health care worker, children cannot timely use medical care, that is regular health examinations and controls are not conducted, except when they get sick. In addition, the Ombudsman found lack of equal conditions for realising the right to education of children belonging to the Roma community with elements of discrimination due to ethnicity.

Regarding the established condition he notified the JU Inter-municipal Social Work Centre of the City of Skopje and the Ministry of Labour and Social Policy, pointing out that most urgently measures need to be undertaken to improve the living conditions of homeless people/children, and to provide conditions for smooth and timely realisation of the right to health care and education of all children accommodated in the centre, with joint activities of the relevant institutions, the local self-government and the school.

#### Health care for children

In terms of the child's right to health care there were not many complaints filed to the Ombudsman, but given that the child is entitled to the highest level of health and medical care and rehabilitation, as well as the obligation of the state to insist that a child shall not be deprived of the right to health care, according to the Convention on the Rights of the Child, and the sensitivity of the issue given the age and development of the child, the Ombudsman pointed out to the smooth exercising of the right to health care and health insurance for the child.

The actions upon the complaints showed that the policies for protecting the health of the child by the state in terms of providing comprehensive health care treatment are still not complete, especially in the case of a disease that is rare, and is also not provided with the programme for rare diseases. In addition, parents sought protection of their children for medicines that are not on the positive list for treatment, and for lengthy administrative procedures, as a result of which they had lost the right to reimbursement of funds for treatment of their children.

Acting on individual complaints about the (non)realisation of the right to health care for children, particularly worrying is the example of a six and a half year old boy whose parents are forced to provide 60.000,00 denars for medication every month, because the necessary medicines that keep him alive are not on the list of medicines covered by the Health Insurance Fund. The Ombudsman informed all relevant authorities about the case, including the Minister of Health, with a request to consider providing treatment for the child and inclusion of the disease in the programme for rare diseases. Although the outcome was awaited for more than two years, the problem was not solved because of lack of funds, which was the reason for the impossibility for the disease to be included in the programme for rare diseases.

Moreover, the Ombudsman concluded that the clinics do not always provide the necessary health care to children with disabilities in institutional care, particularly in cases of combined disability of children. Acting urgently in such cases, the Ombudsman pointed to the necessity of undertaking measures and acceptance of these children for treatment, in order to improve their health situation and asked for an expert opinion on the possible need for their accommodation in another clinic and treatment by appropriate professionals. The suggestions of the Ombudsman were accepted, and the children in such cases realised the right to adequate health care.

According to the Ombudsman, improper care or refusal to accept a child at the clinic is contrary to the principle of the best interest of the child, and the relevant institutions and authorities should exert maximum effort and show dedication by the provision of the necessary and appropriate care and support, so that the children (those with special needs as well) could enjoy the rights fully and with dignity.

#### **Education of children in primary and secondary schools**

One of the factors that affects the proper development of the individual is the educational system. The greater the level of education of the individual, the easier their integration into the modern trends of social life would be and they would find it much easier to protect and achieve their guaranteed rights.

Following the state of children's right to education, which is free and compulsory, as well as exercising of the rights of students in primary and secondary education, the Ombudsman in 2013 did not find any problems regarding the enrolment of children in school, which was typical of the past years. A small number of complaints were also filed regarding the right to free transport. Acting thereon, the Ombudsman in cases where legal requirements were met, demanded from the school and the competent municipality to undertake measures for covering the transportation cost of students or providing adequate transportation, with strict adherence to the Law on Primary/ Secondary Education. At the same time, he acted on complaints from parents that indicate abuse by the management of certain schools to charge for books used in the school year, with the justification that the payment was due to damaging of the books, although the books were not new, that is, they were already used and damaged.

In these cases, the Ombudsman demanded performing supervision by the competent educational inspectorate and undertaking appropriate legal action in case of violation of the right to free education for children.

This year most of the complaints were related to the external testing of the knowledge of primary school students and high school students, which was implemented in the schools in the Republic of Macedonia for the first time. Namely, complaints were filed from several cities about certain irregularities in the organisation, implementation and results of the external evaluation of students, by the students themselves and their parents.

The Ombudsman acting on the complaints of parents and students and following the situation with the external examination, dedicated special attention to the best interest of the child and the right to unimpeded education under the Convention on the Rights of the Child, the Law on Primary Education and the Law on Secondary Education. Thereby, having regard to the Rulebook on the manner of establishment and operation of the school commission, the secrecy of the material for external examination, the method of checking the tests by the school commission and the form and content of the report of the external testing of students in primary or secondary schools, the Ombudsman concluded that it passed with numerous problems and defects, whereof he submitted a special information to the Minister of Education and Science and to the Director of the State Examination Centre.

Namely, the Ombudsman detected flaws, both in terms of the manner in which it was organised and carried out, as well as inconsistencies and violations of legal terms and issues that are not fully regulated by the legislation, which resulted from the practical implementation of the external examination of the students in primary and secondary schools, whereby there were violations of children's rights, with nobody bearing any liability for that.

Among other things, from the complaints and the media the Ombudsman found that in many primary schools students and parents were not promptly informed about the external testing, especially in rural areas, where they learned about it within a short period before its implementation, that is, the legal deadline for publication of lists of examination subjects was not respected. In some primary schools, children were not fully covered by the initial testing, nor were on the examination lists in the first period and only after the persistent requests of the parents, and after initiation of a procedure at the institution, students were allowed to take the exam additionally, in the August term.

In terms of the questions contained in the tests, there were complaints that for some subjects these have been taken from a teaching material that was not taught to students. After the reaction of students they were told by the persons supervising the examination not to answer these questions. However, they were taken into consideration in the assessment. The Ombudsman also found that in some subjects the tests were hacked and were posted on the social networks, which suggests the need for additional measures for greater reliability of the tests. In

addition, the tests contained questions in a language which is not an official language, that is Serbian language, some questions repeated several times, or there were questions to which only one correct answer should have been provided, although several possibilities (answers) were given all of which were correct, and also noted flaws regarding the date of commencement, or delay in the start of the testing and prolonging of the beginning, more than foreseen by the Law, then "collapse" of the computer system, and observations due to conducted external testing on defective computers.

Regarding the right to appeal by students, it was found that this issue was not fully regulated in the Law on Primary and Secondary Education, and the Rulebook on the Establishment and Operation of the School Commission, in case that the appeal does not come to the State Examination Centre due to an administrator error or problem in the IT system. In the reporting period, it was concluded that in such cases the grade becomes final, and the student, although it is not their fault is damaged by the grade.

The Ombudsman also found that in the certificates unsatisfactory grades, that is 1, were entered and there was no possibility for the student to correct it, and that after the decision of the school commission regarding the filed complaint, the student was not entitled to further protection, that is, no right of appeal against the decision on the complaints was envisaged.

The Ombudsman informed the Bureau for Development of Education, the State Examination Centre, the State Education Inspectorate and the Ministry of Education and Science of all separate complaints from citizens, and depending on the school to which the petition referred, he also addressed the Director of the respective school.

According to the Ombudsman, the answers that schools are required to teach the subject matter and that it is the duty of the directors, who are also presidents of the school commissions to communicate the information regarding the external testing to all stakeholders, or that a complaint was not received by the State Examination Centre, does not indemnify the students, or their parents. On the contrary, children that is, students, both in primary and secondary schools across the state are directly affected by the entire process, but despite that, they were not timely and fully informed of the manner and the procedure of taking the external tests, the subjects to be tested, as well as, their rights and obligations regarding this examination. At the same time, students who received lower grades, only because they did not answer questions on material that was not taught by their teachers, or students who submitted a complaint, which, not by their fault, was not submitted to the State Examination Centre electronically, had to reconcile to the test grade.

The Ombudsman believes that measures should be undertaken to timely inform students and parents on the manner of testing, the subjects in which students should take the tests, the test content to be adjusted to the teaching material that was taught throughout the year and in the language in which the student is educated, or in which the lectures are followed, to ensure confidentiality of the tests, so that all students could demonstrate their knowledge on an equal basis. In addition, complete and timely inclusion of all students in the registration system for external examination, and undertaking measures to improve the information system, timely and quality training of persons responsible for maintenance of the IT system and implementation of the external testing, as we as, suitability of the staff in this regard.

Within the Annual Work Programme, the Ombudsman conducted educational activities in primary and secondary schools and through immediate and direct meetings with students promoted their rights envisaged by the Convention on the Rights of the Child and the domestic legislation, familiarising children with the role and mechanisms for protection of children's rights, inter alia with the work of the Ombudsman.

From the conversations with the children, the Ombudsman concluded, inter alia, that primary school pupils know about the Convention on the Rights of the Child, but their knowledge of rights and mechanisms for protection of children's rights are limited, and can vaguely distinguish what is a right and what is a liability of the child. In subjects that teach about human freedoms and rights, the issue of children's rights is insufficiently dealt with, and the contained material on the role of the Ombudsman is abstract, so that children find it difficult to obtain a clear idea of the competences of the Ombudsman, as authority for protection of citizens' right, that is the

rights of children.

Unlike pupils in primary education, secondary school students have greater knowledge of their rights, but it is a general knowledge. The conclusion that these students, as well, have knowledge of the Convention on the Rights of the Child is valid, but an insufficient or a very small number of them have seen or have read this document.

According to the Ombudsman, the activities in schools for inclusion of children and their practical introduction to the rights, as well as education of teachers for the proper presentation of children's rights can contribute immensely to the improvement of the situation in terms of the perceptions of children regarding this issue.

Given that computers are used in schools, the posting of the Convention on the Rights of the Child on the school's website will contribute to making it at any time available for students to read, and to become aware of the existence of children's rights and the document containing the rights framework summarised in one place. In addition, if in multi-ethnic schools activities are envisaged in which students from different ethnic communities participate together, children will be educated to accept differences, to respect the rights of others, and thus it will contribute to overcoming possible conflicts or disagreements by using dialogue and communication among children themselves, that is students and teachers.

Moreover, children should be trained to recognise the rights and obligations, violations of their rights and their abuse by anyone and for any reason, with their knowledge and skills and have sufficient knowledge of all possible mechanisms, domestic and international, that are responsible to provide support, protection and care and to gain knowledge as to how and in which procedure they may require the exercise and protection of their rights. The achievement of these goals certainly requires properly educated and trained teachers who will educate children and guide them to respect human freedoms and rights and will encourage them to use all possible mechanisms for the smooth realisation and protection of their rights, which can be achieved by the introduction of a separate subject for this issue at all levels of education.

# Using the Internet and the use of social networks and their impact on child development

The development of information technology, including the use of the Internet enables improvement in several areas. Nowadays, the use of mobile phones and searching the Internet is familiar to every child, so that children spend their free time using their computer or mobile phone rather than with peers or family. Besides the use of the Internet for learning, expanding their knowledge in certain areas, games or entertainment, children use this technology for correspondence and conversation with other people that they know or don't know.

Although a small number of complaints have been filed for the protection of children from the abuse of social networks, still the general findings show that the access to internet information is not always appropriate for the proper and comprehensive growth and development of the child. Namely, the visits of the Ombudsman in primary and secondary schools and the conversations with children confirm that children, especially in the lower grades and classes are insufficiently aware of the abuses of the Internet and the manner to protect themselves from information that cause discomfort and almost do not tend to discuss such content with their parents or adults that they trust.

The impact of various social networks in which messages are transmitted, instead of strengthening the sense of human values, respect for diversity and tolerance among children, often strengthen feelings of distrust, rejection and also fear from people who are different from them.

It is disturbing that parents themselves open Internet addresses for their underage children, allow them to publish data, information and even personal photos, which once released become public and difficult to control. They also observe children while using the Internet for a

small time, and children access and use the internet addresses, or have access to social networks without the presence of their parents.

The need to be careful when using the Internet is necessary, as well as knowing how to be safe on the Internet, because the publication of personal information and data can be misused by others.

The Ombudsman believes that the possibility of providing limited availability of information and data that are harmful for the proper formation of the views of children and young people, which may adversely affect the normal growth and development of children, should be seriously considered. In this context, the competent authorities should undertake measures for limiting such information that are available to children and greater representation of information that positively affect children and young people, and which expectedly contribute to the establishment of proper criteria for the living and social values and building of healthy individuals. It is also necessary, through various types of media, to plan and present a greater volume of educational programmes and programmes that will educate children, young people, and adults, as well.

# Cooperation of authorities and organisations with the Ombudsman in the area of children's rights

The Unit for Protection of Children's Rights and People with Disabilities continues to emphasise the importance of efficient, timely, accurate and professional conduct by all concerned authorities and institutions for the protection of children's rights. Especially it should be reacted through protective actions to prevent breaches or violations of children's rights, which can leave trauma and severe consequences on the child's development. Strengthening of the cooperation and building partnerships aimed at realising the rights of children and persons with disabilities in all areas and walks of life is a step that can give a positive result and wherefrom respecting of the basic principles of the Convention on the rights of the Child can be expected.

Breaches and failures to respect the rights of the child are still present in many spheres of social life.

The best interest of the child, considering its opinion and participation of the child, are still declarative principles, because parents and authorities that need to take care of the rights of the child and its best interests not always take these principles into consideration.

Children with disabilities find it difficult to exercise their rights to health care and are not always properly cared for and treated in the institutions for care of these children.

The manner of conducting the external examination violates the rights of children in primary and secondary education.

Children of the Roma community in Chichino Selo again face problems in exercising their right to compulsory and free education.

The low education of children about their rights is the reason why they find it difficult to recognise the violations of the rights and do not use the mechanisms for their protection.

#### Recommendations

Provision of opportunities and conditions for the exercise of the rights of the child without problems and limitations in order to ensure normal growth and development of children.

Respecting the best interest of the child in all actions and decisions related to the rights and interests of the child and respecting its opinion and participation in decisionmaking.

Creating conditions for real and timely exercise of the constitutional right to health care for every child and smooth realisation of the right to education under equal conditions for everyone.

Undertaking measures to promptly and fully inform children about the manner and content of external examination and their rights in connection with this novelty, thereby respecting the best interest of the child and consistent and full implementation of this principle in external examination.

It is necessary to introduce a separate subject for educating children about human rights and freedoms and about the mechanisms for their protection at the national and international level, in all degrees and types of education.

# RIGHTS ARISING FROM HIGHER EDUCATION

Acting so as to protect the rights of citizens in the area of education, the Ombudsman was primarily guided by the constitutionally guaranteed right to education and availability thereof for everyone under equal conditions. The number of complaints filed for protection in the area of education, particularly in higher education institutions, during 2013 does not show significant changes, also in the problems whereof citizens sought intervention by the Ombudsman.

Namely, this year, as well, citizens sought protection of their rights due to failure to act on their requests for validation of degrees, that is, equivalence and recognition of degrees from foreign institutions of higher education, they also complained about the procedures and conditions for appointment in an academic-scientific or another position, expressed dissatisfaction due to non-response on their complaints about inappropriate behaviour in higher education institutions, non-issuing of a certificate of completion of education or specialisation, and other rights of higher education.

Complaints relating to the recognition and validation of foreign degrees were usually submitted due to delaying of the procedure for validation, but also due to dissatisfaction with the decision of the competent ministry, especially in the case of non-recognition of the higher education qualification acquired abroad. In most cases, following the intervention of the Ombudsman, citizens realised the right of recognition of degrees acquired abroad, and in cases where the need

for additional documents was established, the parties were advised to complete their documentation, after which the proceedings before the Ministry of Education and Science continued.

The Ombudsman established an occurrence of non-issuing degrees for a completed first cycle of higher education studies to students from different faculties and universities, whereby the rights to a larger group of students were violated by non-issuing of a faculty degree. Moreover, he also determined inefficiency of the institutions responsible for solving this problem that is failure to undertake measures by the State Education Inspectorate, the University and the Department of Higher Education within the Ministry of Education and Science to overcome this problem.

Acting upon the requests of students, the Ombudsman referred to the above-stated authorities and requested that they, within their competences, undertake actions to establish the factual situation and the reasons due to which degrees were not issued to students who have completed the first cycle of studies, by indicating that if there are legal conditions for that, students should acquire degrees for completed cycle of higher education, so that they would continue their further education.

Similar problems were faced by a group of doctors employed in the University clinics who completed specialisation, but certificates for completed specialist exam were not issued to them, and another group of citizens who were offered to sign a contract with the clinic where they are employed under conditions that were not applicable at the time when they started the specialisation.

The Ombudsman, despite the written notifications, by direct insights at the competent faculty and clinics where the citizens/doctors, submitting the complaint were specialising, pointed to the violation of the rights. According to the Ombudsman, by the obligation of the doctors attending specialisation to sign contracts according to legislation which was not valid at the time when they were approved specialisation, it is being acted contrary to the laws and bylaws, that is the law which was adopted and came into force afterwards does not include this group of doctors attending specialisation. The Ombudsman pointed out to the Faculty of Medicine and the University clinics where the group specialised, that in this manner the rights of these citizens are being violated, among other things, because the tendency to apply the new law which came into force after the adoption of the decisions and resolutions on specialisation although, it determines different conditions for the candidates than those specified in the decision or resolution are less favourable to them, is inappropriate. The above-stated authorities accepted the indication and the group of doctors attending specialisation signed contracts under the law that was in force at the time when they were approved specialisation, and not by the new law.

Regarding the problem with non-issuing certificates of completed specialisation and conditioning citizens to pay participation, or outstanding debt to the university, the Ombudsman indicating violation of the rights of doctors who passed the specialist exam and cannot obtain certificates of specialisation, demanded certificates to be issued without any conditions of paying the specialisation debt. This group of specialists exercised their right as well, that is certificates were issued to them without being conditioned to pay the specialisation debt.

In this reporting year, non-acting on the requests of citizens within the legal deadline was also noted, failure to submit a response to citizens as clients, as a result whereof the Ombudsman pointed out that the Ministry of Education and Science and the bodies thereof should act effectively and respect the envisaged deadlines. Simultaneously, he pointed to the need for greater cooperation with the body that protects the constitutional and legal rights of citizens and delivering timely and appropriate responses, which will affect the improving of the access to education rights for all citizens.

There were also complaints about the (il)legal awarding of academic titles to employees in certain faculties, or universities. After the measures undertaken by the Ombudsman and the examination of these cases where the allegations for an illegal procedure were confirmed, that is the conditions for election were not fulfilled, the awarding of an academic title was not performed and the procedures for awarding an academic title were repeated.

Acting on complaints of illegal activities and violations of the procedure for the selection of deans by the faculties within the University of Information Science and Technology "St. Paul the Apostle" in Ohrid, as well, the Ombudsman found legal flaws that have also been confirmed by

the State Education Inspectorate, since the selected persons did not have verified degrees. Acting on the request of the Ombudsman, the State Education Inspectorate performed an extraordinary inspection and obliged the University to undertake measures and activities, in order to respect and consistently implement the Law on Higher Education and the Statute in the selection of deans of faculties at the University of Information Sciences and Technology.

After a number of complaints in which students sought protection against a pronounced disciplinary measure for exclusion from lectures or prohibition of taking exams and colloquia at specific sessions, the Ombudsman did not initiate proceedings, since after studying the cases he did not establish violation of rights, that is the decisions adopted by the University "Ss. Cyril and Methodius"- Skopje were under the Statute of the University. However, by a reasoned notification he informed the citizens about the manner in which a certain issue is regulated by a law or act of the University.

# **Conclusions**

Conditioning -students/ doctors attending specialisation to pay an outstanding debt in order to receive a degree for studies/ specialisation is contrary to the Law on Higher Education.

There is a delay in the procedures on requests for validation or equivalence of foreign degrees and higher education qualifications.

Some faculties still do not respect the terms and procedure for selection in a certain academic-scientific title.

# **Recommendations**

Full compliance with the Law on Higher Education regarding the issuance of degrees/ certificates for completed cycle of higher education.

Acting within the legally envisaged deadline upon requirements of students for validation and recognition of foreign degrees and higher education qualifications.

Transparency and legal enforcement of procedures for awarding an academic-scientific title by the universities and faculties.

# **LABOUR RELATIONS**

In this reporting year as well, many citizens sought protection in the employment procedures, deployment procedures, the procedures for termination of employment, the procedures of payment of salary, removal from the office of director and less represented were the requests for intervention in the procedures for transformation of the labour relation from definite time employment to indefinite time employment, unresolved employment status, disciplinary procedures, procedures before the Employment Agency of the Republic of Macedonia and procedures for exercising the right to severance payment, removal from the workplace, etc.

In the employment procedures it was most frequently indicated that persons who do not fulfil the conditions stipulated in the announcements were employed, that is, people who gained less points were recruited. Citizens considered that in the implementation of employment procedures people with several years of experience should be given preference in employment and complained since in the implementation of the procedure of employment written notifications stating the name of the candidate who was recruited based on the announcement, were not submitted to them. They also required protection since the Administration Agency did not apply a transparent procedure, that is, they have no insight into the points when taking the exam.

The Ombudsman indicated to the authorities that implement employment procedures that they should consistently apply the legal provisions in employment procedures, in particular demanding that care should be taken that the selected candidate fulfils the requirements according

to the announcement and whether in the decision-making process for selecting a candidate the factual situation was fully determined. Such indications were also submitted by the Ombudsman to the second degree commissions to which complaints by dissatisfied applicants were submitted.

In the complaints regarding the deployment procedures, citizens considered themselves inadequately deployed to a job position by the degree of education and that they receive a lower salary because of the deployment, and also demanded protection due to a given oral order for reassignment to another job position or given obligation for deployment without an adequate act.

In these cases, as well, the Ombudsman indicated the consistent application of legal provisions, especially whether the job to which the employee is deployed is provided in the act for systematisation of job positions of the body that conducts the deployment, whether the employee meets the conditions laid down for the job position to which they are deployed, and indicated that the oral order, obligation or written order may not be considered an act of deployment.

This reporting year, there were several complaints by employees - soldiers in the Army of the Republic of Macedonia who thought that their rights were infringed due to the refusal of the request for termination of employment upon fulfilled conditions in accordance with the Law on Military Service, that is, they considered that the Ministry of Defence has unequal approach to all applicants.

In the actions, the Ombudsman pointed to the consistent application of legal provisions, particularly the principle of equality of citizens before the Constitution and the law and in this respect that employees should not be put in a less favourable position than other persons in comparable cases.

Citizens also demanded intervention for a decision on termination of employment, although there are no legal grounds for that, due to cancelation of a job position as a result of business reasons, without previously conducting the legally envisaged procedure, then for a decision on termination of employment prior to the expiry of the period for which the employment contract was concluded. The Ombudsman on these cases indicated which legal provisions had been improperly applied or not applied at all, which makes the decision for termination of employment unlawful.

In this context, several principals of primary and secondary schools of the Municipality of Gostivar demanded protection from the Ombudsman, because the mayor had adopted decisions for termination of the office of principal before the expiration of the term.

The Ombudsman found that in the adoption of the decisions for termination of the office of the principals of primary and secondary schools, the prescribed legal procedure for termination of the office of the principals of primary and secondary schools, pursuant to the Law on Primary Education and the Law on Secondary Education was not conducted, that is the decisions of the relieved principals were immediately adopted by the mayor, without a proposal from the school board to relieve the principal from their duty, or without serious injuries being established in the operation of the principal by the State Education Inspectorate.

Acting on complaints of citizens due to the payment of lower salary or unpaid salary, the Ombudsman pointed to the consistent application of legal provisions, especially salaries to be paid according to the predicted ratios or determined points in salary decisions.

The Ombudsman had a good cooperation with the State Commission for deciding in an administrative procedure and labour relation procedure in the second degree, which acted fully upon the submitted requests for determining the actual situation, and in cases where the Ombudsman found a violation of the procedure or incompletely applied legal provision, it accepted the indications, followed by bringing decisions in favour of complainants. The Ombudsman also had such cooperation with the Commission on complaints and appeals of civil servants, within the Agency of Administration.

Employers incompletely applied and violated legal provisions in all employment procedures.

The procedures for deployment of employees were implemented without taking the act of systematisation of job positions into consideration and the assignment to a job position was conducted without an adopted decision for deployment, which is a direct violation of the law.

Procedures for termination of employment are conducted illegally.

#### Recommendations

Undertaking measures for proper implementation of laws in the field of labour relations.

Particularly, in deployment procedures, all circumstances should be taken into consideration - the need to deploy, the act for systematisation of job positions and the degree of education of the employee and in the implementation of procedures for deployment an appropriate act- decision should be adopted.

The termination of employment should not be done depending on the will of the employer, but by consideration of the general actual situation and by compliance with the provided procedure.

# PROPERTY AND LEGAL RELATIONS

Complaints in the property and legal area indicate inefficient and untimely operation of bodies, or violation of substantive and procedural rights of individual, as parties involved in separate administrative proceedings. In this segment, some of the complaints for violation of the rules of the procedure, improper or untimely decisions and other irregularities referred to the first degree authorities, most frequently to the Ministry of Finance, its organisational units and bodies, as well as the Agency for Real Estate Cadastre. Another segment of the complaints was about the work of the second degree authority - the State Commission deciding in an administrative procedure and employment procedure in the second degree, which decides on appeals, or the Administrative Court, which decides on complaints.

The Ombudsman again noted that the cases are not addressed in the legal deadline and that the proceedings last for a long period, that is last for years. On the other hand, in the proceedings on appeal, or complaint for an administrative dispute, the response to an appeal, or a complaint, along with the documents for the specific case are not submitted regularly to the second degree authority, the State Commission deciding in an administrative procedure and employment procedure in the second degree, or to the Administrative Court.

In addition, acting on the complaints showed that upon a case that was returned for repeated action and decision by the Commission that is the first degree authority, a new administrative act was not brought within 30 days from the date of delivery of the decision. The State Commission, as well as the Administrative Court, did not at all use the possibility of deciding on merits in cases where the administrative act was once waived, and the competent authority did not act entirely on the stated legal consideration and made suggestions.

It is concerning that there are cases that together with their documents could not be found, that is they are lost, and that the authorities almost never submitted a written response to a specific address of the parties.

According to the Ombudsman, this manner of operation is a violation of citizens' rights, since it is contrary to the Law on General Administrative Procedure and the Law on Administrative Disputes, the provisions of which, inter alia, also impose a liability for efficiency and cost-effectiveness of the procedure.

Moreover, this situation is not a single failure, but a phenomenon, and is best illustrated

by the circumstance that the head of the Department for Normative, Property and Legal Affairs, as late as in 2013 issued a written order to the appropriate organisational units, whereby they need to address cases for privatisation of construction land, for which requests were submitted in 2008, 2009 and 2010.

Hence, the issue remains open when the cases in the coming years will be decided on and who will compensate for the harmful consequences of such non-operation?

Especially considering that the decisions adopted after several years from the filing of the requests can usually not be implemented in the cadastre, since when they were adopted data from the old cadastre were used, based on which the geodetic reports were made. The state authorities and the cadastre, although they have a legal obligation for that, did not remove such deficiencies ex officio, but demand from the citizens to submit new evidence, new reports or to submit new requests.

The procedure in cases for denationalisation, which in this reporting year, as well, are most represented in the property and legal area, and does not differ from the procedure on requests for privatisation, because this procedure, as well, abounds with administrative and bureaucratic procedures. As a result of the non-functioning of the administration and its improper operation, the Ombudsman was unable to consistently fulfil his purpose, that is to ensure effective protection of the constitutional and legal rights of the citizens and all other people.

Namely, the indicated authorities, in addition to not respecting the deadlines established for treatment, undertaking appropriate action and adopting adequate decisions, did not by any means act on the Ombudsman's interventions to update the procedure and adopt appropriate decisions.

There are registered cases for denationalisation and privatisation of construction land that were not resolved since 2008, but there are also cases when the denationalisation decision was effective in 2006, but has not yet been implemented and the denationalised property has not been given in direct and factual governance. By the presidents of the denationalisation commissions, or by the heads of the units for administrative procedure in the Department for Normative, Property and Legal Affairs, which should act in this regard, responses were submitted that "there is an on-going collection of evidence to establish the facts, whereafter the case will be resolved."

According to the Ombudsman this kind of operation is beyond all standards of legality in the operation and taking care to ensure the effective exercise of the rights and interests of the parties in the administrative procedure. In addition, the frequently stated "small number of employees, and a large number of cases" is not an excuse, since in each individual case they have to consistently adhere to the regulations requiring the procedure to be carried out in the legally prescribed deadlines.

It is worth mentioning that the parties, as well as the Ombudsman were informed by the Agency for Real Estate Cadastre that it cannot be acted on a certain case "since they could not find the documents of the case for a longer period of time, that is, they are lost."

The Ombudsman believes that such conduct is not in accordance with the legal regulations and violates the rights and legal interests of citizens, since under no circumstances documents of a case, that are of official nature and serve as a basis for recording changes in the cadastral documentation, may be lost. Therefore, the Ombudsman requested the head of the Agency to undertake the necessary actions and measures to remedy this defect in the operation, in a manner that will require finding the specific documents for all such cases, the procedure to be updated and completed in accordance with the provisions of the relevant regulations and simultaneously determining the liability of the officials who were in charge of the specific cases or acted upon them.

However, despite that, the citizens and the Ombudsman still obtain answers from the Agency that the case and the accompanying documents are lost, which is really a very worrying phenomenon.

Property and legal issues become even more complex and difficult to resolve due to problems with administrative and bureaucratic procedures.

Citizens, although having effective and enforceable denationalisation decisions, are not able to take over the property in immediate and factual governance.

High number of unresolved cases that are transferred from one year to another.

Slow protection of rights, legal interests and freedoms of citizens, when they are violated by individual acts of the administration or because of its silence.

#### Recommendations

The authorities should promptly and effectively act upon the requests of citizens, therefore the responsible persons should undertake all necessary measures to promote and protect their property rights.

The process of privatisation of construction land to be simplified and intensified.

The State Commission and the Administrative Court to use their legal authorisations and in all cases when the legal prerequisites are met to decide meritorily on the appeal or complaint.

Strengthening of the inspection supervision and more efficient action regarding the compliance with the rules of the procedure of delivering administrative acts and other written documents.

# **URBAN PLANNING AND CONSTRUCTION**

Urban planning, especially in settlements and the construction of facilities to meet the individual needs or the public interest in accordance with prescribed standards and norms and adopted spatial and urban plans is an important prerequisite for the normal life of citizens and the functioning of the state system in all segments.

Besides the basic legal norms governing the rights and obligations of citizens and of the legal persons in this area, the adoption and implementation of the Law on Dealing with Illegally Constructed Buildings is of particular importance. By the implementation of this Law, more than half of the total number of requests for establishing the legal status of the illegally constructed buildings were resolved in the past two years, whereby a large number of citizens who lived under the constant fear that their buildings would be demolished were not only freed from that fear, but finally resolved the legal status of their illegal facilities and became their legal owners.

Following the state of realisation of citizens' rights in the area of building, some positive developments were established, particularly by the introduction of information technology in this area, that is, the ability for electronic internet application for obtaining a building permit. On the other hand, the amendments in the legislation that imposed an obligation on the deciding authorities to respect the legal deadlines and threats with sanctions for their violation, contribute to some improvement in the exercise of citizens' rights in this area.

The Ombudsman based this impression on the fact, that there has been a reduction in the number of complaints of citizens against acts, actions or failure to undertake actions by the units for urban planning and urban inspectors in local self-government units.

He also observed the emergence of more efficient action by authorised building inspectors when carrying out inspection supervision on new buildings under construction, and also greater dynamics in local self-government units in the procedures for adoption of detailed urban plans, necessary for more efficient implementation of the procedures with illegally constructed facilities and the possibility for their inclusion into them.

In the reporting year, the Ombudsman undertook action within his legal competences, to protect the rights of citizens by delivering requests for reporting, requests for performing inspec-

tion supervision, recommendations and suggestions mainly to the mayors of the local self-government units, the legal competence of which includes resolving problems and situations relating to urban planning which is of local importance.

#### Conclusions

The situation regarding the action of authorised inspection services in the implementation of the inspection supervision has been improved, but it is still not at the required level.

The procedures for issuing building permits by the authorities in the local self-government units have improved.

#### Recommendations

The authorities should continue to consistently adhere to and enforce the legislation with regard to the legal terms and in relation to the legality of the decision-making.

Local self-government units should act promptly and decide in the procedures for determining the legal status of illegally constructed buildings.

# **HOUSING RELATIONS**

Законот за домување, со подоцнежните измени и дополнувања, од формално правТhe Law on Housing, with its subsequent amendments, from formal and legal nature enabled regulation of the relations in the housing area and overcoming the adverse conditions that were mostly reflected in the management, use and sale of flats owned by the Republic of Macedonia. However, citizens continued to face problems in exercising the rights, so that the number of complaints delivered to the Ombudsman in the housing area has been increased again in comparison with the previous year.

Individual requirements of citizens were submitted for the protection of the rights before the Joint Stock Company for the construction and management of housing and office space of importance for the Republic of Macedonia and its regional offices, the Commission on Housing Issues of the Government of the Republic of Macedonia, the Ministry of Transport and Communications and the authorised inspectors in the units of local self-government. At the same time, in addition to dealing with individual complaints, the Ombudsman continuously monitored the situation in the field of housing and the application of laws and regulations that treat this matter.

After the adoption of the Law on Housing, the citizens-owners of flats, delivered complaints to the Ombudsman and requested information on the manner of registering the communities of owners in residential buildings, the manner of management and the bodies that are competent to carry out supervision over the management of communities.

The novelty in this reporting year was that several complaints about speeding up the procedures before the authorised housing inspectors were received, who finally started operating within the local self-government units and are authorised to monitor the implementation of the Law on Housing and the bylaws under this law.

Based on these complaints, the Ombudsman sent recommendations to the inspectors to conduct inspection supervision, establish the actual situation and undertake appropriate measures to overcome the present problems. In all cases, the authorised inspectors acted on the Ombudsman's suggestions.

Regarding the Joint Stock Company for the construction and management of housing and office space of importance for the Republic of Macedonia and its regional offices, citizens in this reporting year, as well, were complaining about the high calculations for the purchase value of flats and the untimely submission of the calculations to the Ministry of Transport and Communications, as a result of which the procedures for purchase of state flats were unjustifiably delayed.

Although the calculations for the purchase value of the state flats were prepared in accordance with the Decree on the Methodology adopted by the Government of the Republic of Macedonia, according to the Ombudsman, they were too high, especially for those flats that were built many years ago and in the meantime became substantially amortised, and the users of which are people without proper documentation. The prices specified in that manner are higher than the market prices, which is a real impediment for the purchase of this category of flats.

The Ombudsman submitted to the Joint Stock Company appropriate requests, suggestions and requirements, whereupon the Joint Stock Company submitted responses with the required explanations.

Citizens also complained about the inefficient operation, that is unjustified delay in the proceedings upon submitted requests for transfer of tenancy right and purchase of flats. Regarding the purchase of state flats, the Ombudsman after the implementation of the procedures stated that citizens are not informed by which criteria they can purchase the flats, and there is an evident lack of coordination between the bodies and institutions that are involved in the process of deciding upon the requests for purchase of state flats, as a result of which the process itself is being prolonged.

In this respect, the decision-making process takes several months, even years, as a result of which the Ombudsman submitted requests, indictments and suggestions to the Ministry of Transport and Communications for undertaking action to accelerate the decision-making process and adopting an appropriate act based on the decisions. Only in a few cases it was acted on the Ombudsman's intervention, in other cases, the procedures for purchase of flats owned by the state are not yet completed, especially of those people who use flats without proper documentation, that is with no legal basis.

The Ombudsman also intervened before the Commission on Housing Issues of the Government due to not acting on citizens' requests for granting flat lease. In most cases applicants fall into the category of socially vulnerable groups, without provided adequate accommodation. There is no case in which the Commission has granted a state-owned flat for lease to this category of citizens, although it has such a competence under the Law on Housing. Almost without exception, the Commission replied that no flats are available and advised applicants to apply to the announcements for awarding flats for lease, announced by the Ministry of Transport and Communications.

Protection of their rights by the Ombudsman was also demanded by the families of the killed members of the security forces in a helicopter crash, that as early as in 2008 had submitted requests for granting flat lease to the Commission on Housing. At the request of the Ombudsman in 2011, the Commission submitted an explanation that it will act on these requests after the Government of the Republic of Macedonia has adopted a conclusion concerning the requests of the applicants. However, although in the meantime the Government adopted the conclusion, the Commission has not yet acted on the requests.

#### **Conclusions**

Lack of coordination of the bodies and institutions involved in the process of deciding upon the requests for purchasing of state-owned flats - a reason for the delay of the process of purchasing the flats.

Prices for purchase of flats owned by the state are higher than the market prices, which is an obstacle for the purchasing of this category of flats.

#### Recommendations

To establish coordination between the bodies and institutions and to respect the legal terms in the procedures for purchasing of state-owned flats.

To revise the methodology by which the value of state-owned flats is determined and in that respect to reduce the purchase price, especially of old and amortised flats.

# **ENVIRONMENT**

Preservation of the values and improvement of the conditions for a healthy environment, reducing risks to life and health, detecting and preventing harmful effects on the environment are primary duties and responsibilities of each individual, as well as the state in general. In order to ensure and improve the overall quality of life we need to respect the principles of environmental protection, established and guaranteed by the Constitution, laws and ratified international conventions that regulate this matter.

The findings of the Ombudsman regarding the conditions in the environment area remain virtually unchanged, and that is absence of proper care to ensure a healthy and clean environment, low environmental awareness among the citizens and lack of conscience and awareness of national authorities responsible for continuous monitoring of the states and undertaking timely measures to overcome the problems.

This year as well, despite the alarming situation, especially regarding air pollution, a small number of complaints were filed in the office of the Ombudsman in the area of environment. Complaints were most frequently submitted due to issues that directly endanger personal rights or interests of citizens, or for problems that are more of a communal, than an ecological nature, increased level of noise in catering facilities located in the vicinity of residential buildings or delay in a certain administrative procedure or failure to act and untimely measures by the inspection authorities.

Based on the complaints of the citizens, it can be established that there was insufficient and untimely response by the authorised environmental inspectors in municipalities in the case of requests made by citizens who complained and pointed to pollution and environmental degradation, by the disposal of municipal and construction waste on illegal garbage dumps located in the vicinity of their houses or along waterways.

The general public at the end of the reporting year was largely and gravely concerned by the enormous pollution and the presence of large concentrations of harmful substances and micro particles in the air in the major urban areas particularly in Skopje, Tetovo, Kichevo and Bitola. Although such contamination suffers great impact by the adverse climate conditions, heating of homes with solid and fossil fuels, the terrain configuration and traffic, yet in these urban areas there has been a lack of greater determination of the competent institutions to undertake more radical measures to sanction the largest sources of pollution, that is the major manufacturing and processing facilities for decades.

Given the alarming condition that has been present for years, in relation to the disposal of waste on illegal garbage dumps located in close urban environments, both at central and local level, the Ombudsman is concerned and noted an urgent need for construction of regional dumps and improvement of the state with the collection of municipal waste in order to protect and fulfil the right of citizens to a clean and healthy environment.

Adverse environmental conditions in all aspects require the need to intensify the appropriate and long-term programmes for education of citizens in the area of environment, because past experience shows that citizens' awareness in this field is still very low.

The Ombudsman also considered that the transfer of competences in the area of environment to the local level requires more effort of these authorities by strengthening inspection controls on the ground. One should particularly emphasise the responsibility of the local and central government bodies towards undertaking action to sanction polluters, to prevent or reduce risks or adverse effects, in order to allow citizens full enjoyment of the right to a healthy environment.

Lack of environmental awareness among the competent authorities to timely undertake and implement specific measures, so as to overcome the problem of environmental pollution.

Permanent and timely actions that are of particular importance for the preservation of the environment and preventing pollution thereof.

Low inspection controls on the ground.

#### Recommendations

The authorities should consistently implement the legislation, that is undertaking more radical measures to sanction large manufacturing and processing facilities, as well as adoption and implementation of policies to ensure a healthy and clean environment.

To plan and implement activities for regular information and education of all stakeholders about the need to preserve the environment and the effects of the pollution thereof.

Increased presence and strengthening of the inspection controls to protect the environment from pollution.

# **FINANCE**

Regarding the exercise of rights in the field of finance, citizens complained about the problems they had with the Public Revenue Office (hereinafter referred to as: the Office), the work of the administration of the municipalities and the City of Skopje and the operation of commercial banks.

From the action upon the complaints, it resulted that the Office implements the enforced collection of debt based on unpaid taxes, contributions, broadcasting fee or fines imposed in the proceedings of several bodies, in some cases, contrary to the provisions of the Law on Tax Procedure relating to exemption from forced execution and the moment when the execution should be completed.

Namely, acting on individual cases, the Office almost always deducted the full amount of funds that the tax debtor receives as salary, then suggested that if the tax debtor submitted a request along with the required documents, the funds would be returned, and the execution would proceed in accordance with the law. In addition, it also commences forced execution for collection of imposed fines, although the decisions are not yet final, because the parties have filed lawsuits for initiating administrative proceedings, and does not timely notify debtors that they owe, so that the debt based on the interest becomes enormous.

As a result of this type of operation, citizens are exposed to unnecessary costs by going to the Office desks and submitting evidence that the Office possesses or can provide ex officio at any time. Hence, instead of encountering a polite and professional attitude, citizens encounter extremely bureaucratic behaviour by the administrative servants of the Public Revenue Office.

Consequently, the problem caused with double indebting with a broadcasting fee lasts for years, whereby it is most concerning that there is no coordination between the Office and the Macedonian Radio Television. In this context, although the citizens and the Ombudsman are informed by the services of the Macedonian Radio Television that they were deleted from the register of fee payers, that the issued decisions were cancelled and do not produce any legal effect, the Office consistently delivers new decisions for broadcasting fee, and simultaneously a procedure for forced execution of the decisions that are cancelled is implemented.

The Ombudsman considers that the above is a blatant violation of the rights of citizens, their disrespect, maltreatment, harassment and unjustified causing of harmful consequences.

Citizens' complaints in relation to the operation of the administration of the municipalities and the City of Skopje are mostly related to delay in the proceedings on requests for verification of contracts for sale of flats concluded with the Government, as a seller and obtaining a clause - confirmation that the tax on real estate was paid.

Namely, upon receipt of these requests, decisions are adopted whereby under the law, the Government is obliged to pay the relevant tax, but no measures are undertaken for their enforcement and collection of the determined tax.

In practice, such decision is kept in drawers for years, and citizens are advised to make the payment of the relevant tax themselves, which is by no means in accordance with the legal regulations. Moreover, this situation is an obstacle for the citizens to register their property right in cadastral and other public records and to obtain an appropriate property list, that is to use their rights arising from ownership without any impediments.

The fact is, that after the intervention of the Ombudsman action is undertaken for forced execution of the respective decisions, the determined tax is collected and the individual contracts are certified. However, such treatment should be a daily practice in the administration of the municipalities and the City of Skopje, as only then it will really be a service to citizens.

It should also be noted that for the buildings with the same location structure and the same or similar space, the market value based on which the tax base for property tax and sales tax on real estate is determined, is differently established, that is a much greater market value is established, and thus a much greater tax.

The explanation of facts as to when, how, on what basis and in what manner the administration determined the market value of the particular property - house and land - is simply missing.

On the other hand, there is also no explanation why only certain taxpayers are exempt from paying sales tax on real estate and rights for contracts for the sale of so-called state-owned flats, by reference to the content of the conclusion adopted by the Government of the Republic of Macedonia.

In addition, the administration of the municipalities and the City of Skopje, as well as the Public Revenue Office, do not deliver the decisions for tax assessment and warnings that it is not paid in a timely manner, and the citizens, although it is wrong, still think that they owe nothing or that with some partial payment they had paid the debt in full.

Regarding complaints on which the Ombudsman is not competent to act, because they relate to the operations of commercial banks, it is widely known that banks have a wide range of services they offer, but it also includes a significant number of fees for which customers are charged.

Costs (for maintenance of a transactional account, current account, allowed overdrawing of funds, closing credit cards, approval and processing of loans, for various commissions - buying money in foreign currencies, receiving cash payments from abroad etc. ) are not usually as it is said transparent, because they are virtually invisible to the consumers, who will approach the front office.

Banks, on the other hand, are in any case using their dominant economic position to provide customers' agreement to the contractual provisions, without the possibility of negotiation and bargaining and the only way to protect them is bringing an action before the judicial authorities. In this segment, is also the harassment by telephone in case of delay or deviation - cession of the claim from the bank to third parties, who sometimes use illegal means for collection of the debt.

The Ombudsman assisted the citizens in these cases by providing legal advice on how they can protect their rights. He also stressed the need for the National Bank of the Republic of Macedonia to consistently and effectively make sure to protect the rights of service users in the commercial banks and for this purpose, if it finds it necessary, to reassess their right, unconditionally and without any restrictions to determine such costs.

The Public Revenue Office acts from a position of force and contrary to the legal rules of procedure, takes the full amount of funds that the tax debtor receives as salary and commences forced execution for recovering the imposed fines, although the decisions are not yet effective.

The problem of double indebting with broadcasting fee is still present and there is no coordination between the Office and the Macedonian Radio Television.

The administration of the municipalities and the City of Skopje adopts decisions based whereon, in accordance with that law, the Government is obliged to pay the sales tax, but does not undertake measures for their enforcement and collection of the tax thus determined.

Banks, using their dominant economic position, independently determine the amount of costs for maintenance of transaction accounts, approval and processing of loans, payment of commissions and the like.

#### Recommendations

The Public Revenue Office to provide quality services to taxpayers in practice, simplified tax procedures for timely and accurate compliance with the obligations and fair and efficient collection of taxes and other public fees.

Some of the employees of the Public Revenue Office should change their bureaucratic attitude with a polite and professional attitude to taxpayers.

The Macedonian Radio Television and the Public Revenue Office should mutually coordinate themselves and the cancelled decisions for broadcasting fee should not be subject to compulsory collection of unfounded and illegitimate debt.

The municipalities and the City of Skopje, in the procedures for assessment and collection of taxes should ensure transparency, efficiency and equality in the procedures.

The National Bank of the Republic of Macedonia should consistently and effectively make sure to protect the rights of service users in the commercial banks.

# **CONSUMER RIGHTS**

In the exercise of consumer rights citizens face problems in the supply of thermal energy, electricity consumption, the services of public communal enterprises and telephone services. They also submit complaints regarding the quality of products they purchased, and a significant number of complaints were lodged about the work of companies supplying thermal energy.

From the number of complaints and the continuing and frequent visits of citizens to the institution, the Ombudsman found that they become aware of violations of their rights as consumers and users of public services.

In 2013 typical were the complaints whereby citizens expressed dissatisfaction with the obligation to pay liabilities from previous years, although they were litigated (within the legally prescribed period and they are not expired). There was also a significant number of complaints whereby citizens for the same reason requested reduction of charges for the current services they receive, because of the existence of objective conditions, which prevent the regular payment by them.

Regarding thermal energy, citizens complained about the manner of calculation of thermal energy through a single meter, the quality of the delivered thermal energy, the price for the delivered thermal energy, the obligation to pay the fixed part of disconnected consumers etc.

Again as in the previous year, problems concerning the calculation of the consumption of thermal energy through one common meter dominated, because the installation of individual meters has not yet been implemented.

There is also a significant number of complaints whereby citizens complain about the qual-

ity of the delivered thermal energy and the high amount of the compensation for the delivered thermal energy, but of course the biggest problem remains to be the obligation of disconnected consumers for payment of a compensation for engaged power (fixed part) of the fee for thermal energy.

This obligation of the disconnected consumers was imposed by the adoption of the Rules for the supply of thermal energy by the Energy Regulatory Commission, regarding which, the Ombudsman still in their preliminary stage pointed that they would cause contentious situations, since citizens are obliged to pay for a service that they not actually use. However, in this reporting year, the Constitutional Court of the Republic of Macedonia on the submitted initiative for assessing the constitutionality and legality of the provisions of this bylaw did not initiate proceedings on the disputed provision stipulating such a compensation for disconnected citizens.

In early 2013, the activity thermal energy supply, after obtaining the necessary license, was taken over by the company Balkan Energy Group, however, JSC Toplifikacija by the submission of the last bill for delivered thermal energy, after the performed settlement, informed all citizens who had overpaid funds that they would be refunded. However, this approved amount was not realised for all citizens who had overpaid funds. As a result, the Ombudsman also acted on these cases the outcome of which is positive, that is, the funds were transferred to the accounts of the complaints.

The Ombudsman also acted on complaints where various states were detected with reference wherewith citizens complained, due to receiving bills for payment of the fixed part, that is different types of heating installations, different location of the flat in the collective building and the state where citizens who had never been users of thermal energy are obliged, which means that they cannot be placed in the category of disconnected consumers.

During the year the number of complaints increased with the rising price for engaged power, which in fact is directly related to the amount that disconnected citizens pay as a fixed part of the compensation for thermal energy. Because of this situation, the Ombudsman asked the Energy Regulatory Commission for information on the manner of determining the price based on engaged power, the impact on the fee for the fixed part, and the manner of payment of the fixed part, since citizens were not enough informed about this charge. The regulator explained that the amount of this fee is closely linked to the price of engaged power, that is, the adjustment made in the cost of engaged power is reflected as a higher amount of the fixed part of the compensation for thermal energy, which was naturally reflected in a growing number of complaints from citizens.

With the start of the official heating season, there was a lack of quality and continuous delivery of thermal energy, so that the Ombudsman immediately intervened and demanded undertaking of actions that will provide continuous heating of flats, because citizens pay the fee during the entire year, including the disconnected citizens paying a fixed part of the compensation for thermal energy.

In this case, the Energy Regulatory Commission confirmed the irregularities and informed that the supplier was warned for violating the regulations and failure to start the heating season, as a result of which a decision was adopted obliging the supplier to begin with the delivery of thermal energy, in order to protect the rights of the thermal energy system users.

Acting on his own initiative, the Ombudsman also demanded from the supplier of thermal energy "Balkan Energy Group" an explanation for the new mode of heating, which included only users of Toplana Istok. Taking the concerns of citizens about the possible impact of this new mode of heating on the cost of the delivered thermal energy into consideration, the Ombudsman particularly focused on this point and asked for a precise answer.

A response was received that citizens obtain the prolonged heating free of charge, stating that it was a pilot-project, which, in the future, following the conducted analysis and simulation of the system should allow for a changed mode of delivery and period of heating. The Energy Regulatory Commission of the Republic of Macedonia also confirmed the fact that the prolonged heating was free of charge.

After the abolition of the provision of the Rules for thermal energy supply in connection with

the necessary consent for disconnecting from the heating system, the number of disconnected citizens increased. It is peculiar that intervention for exemption from payment of the fixed part was sought by citizens living in an entrance of a collective residential facility that is completely disconnected from the heating system, since despite the unregistered consumption of thermal energy in the common measuring device, they were charged for such a fee.

Acting on these complaints, the Ombudsman observed that the disconnected consumers are obliged to pay for a fixed part even in circumstances where there is no registered consumption of thermal energy for the separate line of the measuring device. In this case, the obligation is only because of the existence of a common measuring device for multiple independent lines, including when consumption of thermal energy is not registered on an individual line, as it is disconnected from the system.

Because of this situation, the Ombudsman submitted an initiative to the Energy Regulatory Commission for amendment of the Rules for thermal energy supply. The Ombudsman substantiated his action by the fact that the entrances in a collective residential housing facility have separate heating installations and in circumstances where it is technically feasible to disconnect the thermal energy supply of an independent line and not to register the consumption of thermal energy of the line disconnected from the system, it should also been intervened in the regulation and the fee shall not only be associated with the existence of a single measuring device. The Ombudsman in this case, also noted that the collection of the fixed part cannot be associated with the use of indirect thermal energy, because it is a completely disconnected entrance through the heating installation of which, there is no flow of thermal energy.

The Ombudsman acted on a significant number of complaints from citizens regarding the work and services of public communal enterprises that perform a public activity -water supply and disposal of urban waste.

Namely, citizens complained about the manner of calculation of consumed water, defective water meters, irregular and provisional reading, the connections to the water supply network, irregular collection and transportation of communal waste etc. In the complaints citizens also sought advice on interest on arrears of unpaid bills and requested agreement for the debt to be paid in several instalments.

In all cases, the Ombudsman pointed out that citizens are obliged to timely settle their utility bills, but actions have also be undertaken to service providers for the mandatory compliance with the provisions of the Law on Obligation Relations governing the expiration of the debt for delivered water and services for communal waste disposal.

Citizens also complained about the services related to the collection and transportation of communal waste, since they receive bills for services that they did not use at all. In fact, in many cases, citizens have complained about receiving bills from the communal enterprise, although neither containers were placed, nor the garbage was collected.

Acting on these complaints, the Ombudsman found the indebting for a service that the citizens did not actually receive disputable. Because of the above-stated, the Ombudsman, acting on complaints from citizens of Butelska Street in Skopje, urged PE Communal Hygiene, citizens to be exempt from the old debt, because the debt is for a period in which no service was used by the enterprise. The Ombudsman also asked for correction of the bills, because according to the information provided, it was clear that the above-stated street is a border between the rural and urban part of the Municipality of Butel.

The public enterprise accepted all remarks and suggestions that ultimately resulted in an adopted decision to write off the old debt for the period when citizens did not receive the service and correction of the bills for all citizens of the rural part.

Another problem related to these services that the citizens indicated in some of their complaints was that they are obliged to pay for the service of collection and transportation of communal waste, even in cases of no registered water consumption. For the purpose of resolving these disputable situations, the Ombudsman requested action aimed at accurately recording the data by the public enterprises, because the collection of these services to the citizens is achieved through a single joint account.

During this reporting year, citizens also filed complaints concerning the services of fixed and mobile telephone operators. In the area of consumer rights in connection with the use of these services citizens complained about the quality of the service, the method of payment for the service, the fixed price etc.

From the complaints it can be concluded again that citizens face imposed conditions upon the conclusion of contracts, leading to a state that citizens as subscribers are in a disadvantaged position and have to accept the obligations being offered upon the establishment of subscriber relations. Here in particular we have to emphasise the disagreement of citizens regarding the organisation of prize games by mobile operators and payment for messages for the period of the prize game.

Also the problems were the high bills and unrealistically invoiced amounts, but in these cases it is difficult to determine the actual situation and the existence of a certain mistake in the performed calculations, so that in addition to the intervention before certain operators undertaking actions by the Agency for Electronic Communications was also requested.

In connection with the delivery of electricity, in this reporting year citizens complained about the high bills, disconnection from the electricity distribution network, inability for the outstanding debt to be paid in several instalments, unauthorised use of electricity, charging a fee for street lighting, the quality of the delivered electricity and so on.

In order to determine whether citizens are properly obliged with the bills for consumed electricity and whether it is a reflection of the actual consumption, the Ombudsman referred to JSC EVN Makedonija - Skopje. However, since it is a technical issue for which the Ombudsman is unable to establish the actual situation, that is to confirm citizens' allegations of misuse, citizens were advised to contact JSC EVN Makedonija - Skopje and demand inspection of the meter - (A test).

Acting on complaints for disconnection of citizens from the electricity network due to unpaid bills for consumed electricity, the Ombudsman concluded that the action is in accordance with the general conditions for delivery of electricity, since under the existing legislation in this area, the distributor can suspend the delivery of electricity to the consumer, among other things, if they do not pay the electricity bill even for a month.

This reporting period is also marked by the complaints by citizens requesting payment of the interest on arrears in several instalments so as to be re-connected to the distribution network. The Ombudsman in these cases indicated the declining economic power of citizens and the legitimacy of their demands, but the Ombudsman's requests were not accepted, with the explanation that electricity consumers are offered favourable conditions for the settlement of their debts during the campaigns organised by JSC EVN Makedonija Skopje. Last year campaigns for citizens to settle the outstanding debt in instalments were not conducted.

Ombudsman's requests for re-connecting these consumers to the distribution network were also not accepted, since according to JSC EVN Makedonija- Skopje, the reasons for the disconnection had to be removed first, that is, payment of the debt for consumed electricity should be made, due to the fact that the disconnections are made pursuant to the Network Rules for Distribution of Electricity.

This year the number of complaints of unauthorised use of electricity has significantly reduced, which is mostly due to the amendments to the Criminal Code that came into force at the beginning of the previous year, because enormously high financial penalties are provided for unauthorised use of electricity, as well as imprisonment up to 5 years.

Acting on these complaints, in many cases it was concluded that legal proceedings in respect of unauthorised use of electricity was not initiated within the legal deadline, but still the citizens were required to pay the debt. The Ombudsman, given the expired time limit for prosecution has asked JSC EVN Makedonija - Skopje not to indebt consumers with an obsolete debt and delete them from the records of debtors. The implications of the Ombudsman for these cases were accepted.

There is a decreased number of complaints for payment of a fee for street lighting in residential areas where system for street lighting was not established. The Ombudsman again

pointed to the municipalities in the favour of which the distribution system operator charges this fee, that the consumers who do not use this service should be exempt from this fee by e decision, pursuant to the Law on Communal Taxes, but unfortunately some of the municipalities did not act in accordance with the suggestions of the Ombudsman.

For the reporting period, there were complaints from citizens' associations, local self-governments, and local communities regarding the poor quality of delivered electricity (voltage) and the collective disconnection of residents in certain periods of the day or year. In order to overcome this problem the distributor built or adopted investment programmes to build facilities in 2014 and with these investments for several settlements (Municipality of Plasnica, Gorno Lisice village) the quality of power supply will significantly improve, that is, it will contribute to reducing the number of defects, interruptions in power supply of a large number of users in these locations.

#### Conclusions

The unfavourable financial situation, a cause that a large number of citizens irregularly fulfil their obligations to service providers, especially liabilities dating from previous years.

The obligation for payment of compensation for engaged power (fixed part) of the fee for thermal energy is valid even when the line was disconnected.

The problem with the voltage of the supplied power causes problems to citizens with damages to household appliances.

No benefits are provided to the citizens, especially the socially disadvantaged ones to settle their debts in several instalments.

The lack of liberalisation and market competitiveness affects the quality of services received by consumers.

Lack of regular and transparent information to all citizens about changes related to the delivery of services and the method of calculation.

#### **Recommendations**

Undertaking activities aimed at introducing measures of a social aspect for the citizens who are in an unfavourable financial situation and are unable to meet their obligations to service providers, that is adoption of a Law that would write off the obsolete debt of these citizens.

Modification of the Rules for Thermal Energy Supply, since by the collection of the fee for engaged power, the indebting is in only related with the existence of a single measuring device even in cases when no consumption for a disconnected line is registered.

To strengthen and improve the quality of electricity delivered to the citizens.

Through frequent campaigns to provide better conditions for citizens with incentives for payment of their debts.

By the legislation to affect the monopoly position of service providers, both in terms of quality and the creation of prices.

Greater transparency of service providers, information of citizens and clear presentation of the performed calculations for the charged service.

# **POLICE AUTHORISATIONS**

Most of the complaints of citizens regarding police authorizations referred to the failure to undertake measures to protect the life and property of citizens and delay in the proceedings on submitted reports. Citizens also complained about the unprofessional and unethical behaviour of police officers, that is breach of the provisions of the Code of Police Ethics, and less in them about the unlawful or excessive use of force and means for pressure and unjustified or unlawful deprivation of freedom. This situation is identical with the complaints in the previous reporting year, when most complaints were filed for failure of police officers to act in accordance with their authorisations under the Law on Police.

The Ombudsman performed the investigation of the allegations in the complaints and the determination of the actual condition by providing substantial evidence and information from the departments of Interior, police stations of general jurisdiction, the Sector for Internal Control and Professional Standards and other bodies within the Ministry of Interior. Although the responses to the requested substantial evidence were submitted to the Ombudsman within the legal deadline, however in this reporting year as well, the conclusion is that the responses were mostly of a formal nature.

This especially applies to the complaints of citizens about the unprofessional and unlawful conduct by police officers, upon which to the Ombudsman, almost as a rule answers were submitted that after the inspections by the competent authorities of the Ministry of Interior it was established that the police officers acted in accordance with police regulations. Moreover, these allegations were not backed up by specific undertaken actions, which lead to doubt regarding the objectivity of the procedure.

On the other hand, in cases where violations were established and sanctions or measures imposed, they are not in line with the severity of the violation, so that the Ombudsman considers that sanctioning unprofessional and unlawful conduct of the police officers is still disproportionate in relation to the established conditions, and this inconsistency may encourage and further negatively affect the behaviour of the police officer.

According to the Ombudsman for the professional attitude of the police officers, which implies expertise, responsibility, a sense of fairness and good judgment in the performance of police work, one should be especially careful at all stages, starting with the admission procedure for police officers, so long as they have a labour relation in the Ministry.

The Ombudsman devoted attention to the violation of the principle of presumption of innocence and considered it necessary in this Annual Report once again to indicate that the personality and human dignity must be maximally respected, that is guilt should be determined by the competent judicial authorities.

In terms of police actions it is typical that the number of complaints regarding the abuse of physical force and pressure means in undertaking police authorisations has decreased. On the other hand, there is an increased number of complaints relating to the incorrect attitude of police officers to citizens, complaints in which citizens complain about an unjustified issuing of a payment order for fines, for "allegedly" committed traffic violations, and citizens particularly complained due to failure to undertake legal action on their applications for protection of their personal and physical integrity from others.

If we compare the data from previous years, it can be concluded that there is a decrease in the total number of complaints against police officers. The tendency of reduction in the overall number of complaints from citizens, according to the Ombudsman, is the result of several years of police reforms, the continuous conducting of trainings and education of police officers, so as to inform them of the international standards of respect and full understanding of human rights, which is necessary and should be continuously practiced. Additionally, the communication that the Ombudsman has with the Ministry of Interior and the bodies thereof is satisfactory, despite the fact that sometimes there are different opinions and positions regarding the individual viola-

tions of human rights and freedoms.

However, there still remains the need for building a relationship with the citizens, who will have full confidence in the actions of police officers and will perceive the police as a service to citizens that quickly and efficiently acts on their reports.

#### Conclusions

Untimely and ineffective treatment by police officers on the reports for protection of the life and property of citizens.

Unprofessional conduct of police officers, especially in the traffic police department.

There are cases when the Ministry of Interior undertakes actions on the report of citizens, after the Ombudsman has addressed the relevant police stations and has asked about the reasons for the failure to act on them, despite the long period of time.

Insubstantial answers submitted to the Ombudsman, that are often not backed up by specific undertaken actions, which leaves room for doubt about the objectivity of the procedure.

# Recommendations

It is necessary to provide quality and professional information to the public, especially in relation to committed criminal offenses that cause particular public attention, in order to respect the principle of presumption of innocence.

Undertaking prompt action on reports submitted by citizens for the protection of their life and property, and timely information to citizens on actions undertaken by the Ministry of Interior.

Implementation of the Code of Police Ethics in practice, as well as continuation of the established training for police officers aimed at specialised and professional treatment and respect of human rights and freedoms.

The Ministry of Interior shall have an objective and quality cooperation with the Ombudsman to effectively protect the rights of citizens.

# **CIVIL STATES AND OTHER INTERNAL MATTERS**

Protection of citizens' rights in the field of civil states and other internal matters is the basis of the personal and social status of every citizen in the country.

From the previous work in this area, the Ombudsman during 2013 conducted research for understanding the general situation with the number of unregistered people in the records, which resulted in the development of anInformation, submitted to the Government of the Republic of Macedonia and the line ministries.

The consequences of people who lack documentation that would prove their status are serious in a contemporary society, with direct restrictions on their rights. Firstly, they are people whose birth was not recorded in the books and therefore these people should be treated as persons belonging to the most vulnerable groups.

The Ombudsman detected this situation in the Republic of Macedonia as an inherited weakness of the type of so-called "found foreigners" from the republics of the former Yugoslavia, the restrictiveness of the Law on Foreigners and its application by the competent authority within the Ministry of Interior, to the distrust of citizens in the institutions of the system.

The country is obliged to respect the generally accepted norms of the international and domestic law, as fundamental values of its constitutional order, to take care of the situation re-

garding the exercise of status rights, of their- native, as well as of foreign citizens, or persons without defined citizenship.

From the submitted replies it can be concluded that the problem with the unregistered people and people without documents was observed by the state, that an action for registration of these people in the main book of births is underway, but that there are still people without recognised civil status (the primary issue of this status being the issue of citizenship).

Possession of identity documents is a prerequisite for achieving several rights in the legal and political system of the country.

Therefore, in the case work in this reporting period, the Ombudsman pointed out to the line Ministry of Interior that the issuing of new biometric documents (passports, identity cards, driving licenses) should comply with the applicable regulations to allow the exercise of guaranteed rights of citizens. There is no justification to the fact that due to lack of a biometric document, the citizen cannot exercise their basic political right - the right to vote, guaranteed by the Constitution and the positive laws. Every citizen who has 18 years of age acquires the right to vote which should be realised in free elections by secret ballot.

The Ombudsman also acted on several complaints on issuing of passports to Macedonian nationals, that reside abroad for a longer period of time and concluded that there was a positive outcome and revival of the legal application norms in our diplomatic and consular offices.

Unlike Macedonian citizens, the Ombudsman concluded that foreigners in the Republic of Macedonia exercise their right to residence with difficulties in the competent authority for foreigners.

Case work shows that this authority within the Ministry of Interior is either not familiar with the role of the Ombudsman in the legal system of protection of all persons, or intentionally obstructs it, thus hindering the work of the Ombudsman.

For a specific case, the Ombudsman submitted a Special Report to the Minister of Interior, but because of the continued lack of cooperation the Ombudsman will be forced to submit such a report to the Government of the Republic of Macedonia and the Assembly of the Republic of Macedonia, as well.

Although the data suggest an increased number of positive decisions in proceedings for acquiring status of nationals, as a result of the cooperation with the Department of Civil Affairs within the Ministry of Interior, in certain cases, the Ombudsman concluded further delay in these proceedings due to lack of coordination of the Ministry bodies. The Ombudsman concluded that his suggestions for service orientation and assistance to ignorant clients by the stated authorities are respected, given that the Law on Citizenship of the Republic of Macedonia does not provide deadlines for deciding upon a submitted request and that the procedure may take place for a longer period of time.

An increasing number of complaints of people who before the body for citizenship applied for citizenship of the Republic of Macedonia when this reception is a particular national interest of the state, was noted.

In terms of the freedom of movement and choosing a place of residence in the Republic of Macedonia, the Ombudsman, as in the previous reports considered that the existing Law on Reporting of a Place of Residence and Temporary Residence imposes an unnecessary burden to citizens, that for registration and cancelling of a place of residence and registration of change of address of the flat, along with their applicant should submit a property list or lease contract, certified by a notary public.

There was an improved performance of the body for keeping official books in terms of the faster service to citizens with the necessary extracts from the official records, and implementation of legal decisions for new official areas and official books that will satisfy the needs of citizens from different ethnic communities.

However, as it was pointed out earlier, the fact that there is still a significant number of unregistered people in the official records is concerning. That results from the data obtained from governmental and non-governmental organisations, under which during the final processing of

data from 26 September 2013, 510 unregistered persons in the whole state were recorded and non-governmental organisations working on the ground indicate an even higher figure.

In the past period there was increasing in the number of asylum seekers in the country and illegal migrants staying in the Centre for foreigners. During the inspection at the Centre for Foreigners, the Ombudsman found that the issue of health care to illegal immigrants remains, because an outsource doctor was engaged, who performs the examinations three times a week. The right to a walk by the detainees at the Centre for Foreigners cannot be exercised, as well.

Unaccompanied minors in the Centre do not contact and are not visited by a guardian, regardless whether in their records there are or there are not decisions on guardians appointed by the Centre for Social Work. The procedure for appointing a guardian, pursuant to the Law on Family, is an urgent procedure and it is necessary that a guardian is appointed in the shortest period of time, for the purpose of timely and complete care for children's rights.

The Ombudsman visited the shelter centre for asylum seekers that housed 85 people. Some of them said that they submitted the request for asylum in the centre itself, and not at the border crossing or the nearest police station, as it is regulated under the Law on Asylum and Temporary Protection.

Some of the asylum seekers said they only had a receipt for exiting the Shelter Centre for Asylum Seekers, but not a receipt issued by the Asylum Department of the Ministry of Interior. In accordance with this situation, the Ombudsman found that it is not acted in a timely manner when issuing receipts in the legal deadline of three days stipulated in the Law on Asylum and Temporary Protection. With this receipt the asylum seeker proves that he/she is allowed to remain on the territory of the Republic of Macedonia, during the procedure on his/her request for recognition of the right of asylum.

Additionally, it was found that asylum seekers also wait for the identification document for a long period of time, that is, one of the persons requesting asylum informed that he acquired this document within 8 months, although asylum seekers should be issued an identification document within 15 days from the day of submission of the application for recognition of the right of asylum.

The identity document for asylum seekers is valid until a final decision in the asylum procedure is reached, or until the expiration of the period within which a person is obliged to leave the territory of the Republic of Macedonia after the decision on rejecting his/her claim becomes effective.

# **Conclusions**

There is still a significant number of unregistered people in the official records and persons without recorded citizenship, which is an obstacle regarding the exercise of the fundamental rights of these individuals (health care, education, employment, etc.).

The Sector for Border Affairs and Migration does not act again upon the interventions by the Ombudsman in protecting the rights of the citizens (including foreigners).

Due to the still present lengthy procedures, citizens face difficulties in exercising their right to issuing of public documents, statements from official records, registration of place of residence and residence address, determination of citizenship, etc.

# Recommendations

Acceleration of the actions to upgrade the material and human resources of the authorities which decide on status rights of citizens.

Action for recording people in the official books of the competent authority for keeping these books in the current term and continuing the more intensive cooperation between the governmental and NGO sector in the future.

The Sector for Border Affairs and Migration which hinders the work of the Ombudsman should respect the legislation (Law on the Ombudsman, Law on Internal Affairs) and start to cooperate for the purpose of smooth exercising of citizens' rights.

# PENITENTIARY-CORRECTIONAL AND EDUCATIONAL-CORRECTIONAL INSTITUTIONS

This reporting year as well, the problems faced by convicts and detainees remain unchanged.

The conditions in most institutions continue to be beyond the prescribed standards and as in the previous years, again the biggest problem is overcrowding, frequent conflicts between convicted persons, and insufficient and inadequate health care, and complaints were also filed about the use of physical force against convicted persons by employees in the security service.

The continuously present problem with the overcrowding also causes other negative phenomena in prisons in terms of inadequate accommodation conditions, poor hygiene, poor quality of the food, poor conditions in the sanitary rooms and the like, as a result of which the Ombudsman submitted an indication to the competent institutions aimed at undertaking measures to eliminate these problems. Basically, the competent institutions accept the suggestions of the Ombudsman, but the assessment is that only non-essential improvements are made, and the problems remain the same.

Due to the frequent lack of essential medicines and generally bad conditions in prison clinics, violations to health care rights of convicted persons were found, whereby the Ombudsman indicated to the competent authorities at the institutions that they have an obligation to provide comprehensive health care to convicts, according to the international and domestic standards, in order to remove the danger of worsening their health condition, that is to ensure the preservation of the life and health of the convicted persons.

Acting on the suggestions of the Ombudsman, the institutions undertook appropriate measures to protect the health of the convicts, supplying the medications necessary for appropriate medical treatment. In addition, convicts were sent to specialist examinations outside of the institutions.

In this reporting period, an intervention of the Ombudsman was also often requested for conflicts among convicted persons, primarily in PCI "Idrizovo". Given that this also put into question the security of the convicts and the institution as a whole, in several cases, displacements of convicts in other institutions were required, or in other units of the institution.

The Ombudsman, in connection with this problem, emphasised to the management of PCI "Idrizovo" that they should consistently apply the Rules on carrying weapons and the manner of operation of the Security Department of PCI and ECI with a request to undertake measures for the personal security of convicts and their transfer to other units of the institution or to other institutions for security reasons. These interventions of the Ombudsman were accepted and thus the conditions among the convicts were less tense.

Although there is a small number of complaints relating to the use of physical force or unprofessional conduct by persons from the security service, the Ombudsman acting in the protection of convicts, due to the allegations for physical abuse by officers, conducted direct supervisions on the spot. In the specific case against an officer, in which using of excessive physical force was determined, the Ombudsman submitted a request for initiation of a procedure for determining criminal responsibility to the Basic Public Prosecutor's Office, which was accepted and the offender was sentenced to imprisonment in court proceedings.

In the past year, convicts also sought intervention by the Ombudsman, due to the inability to use privileges. Although in these cases there was no violation of a right, the Ombudsman indicated to the institutions that they should have a consistent application of the regulations, governing the granting and use of privileges, in accordance with the Rulebook for granting and using privileges, so that the convicted persons would not be brought in an unequal position compared to other persons who use privileges.

In 2013, the Ombudsman dedicated particular attention to the realisation of the rights of detainees, with a special emphasis on the timely undertaking of measures for health care of these individuals, accommodation conditions and hygiene in which they are serving their detention, and respect of the right of movement in fresh air.

The Ombudsman, as in the previous years, again noted overcrowding and inadequate accommodation conditions of detention units of the penitentiary- correctional facilities, and insufficient health care of detainees, particularly in the Skopje Prison.

Complaints of this kind, on behalf of the detainees, were also submitted by their families who often required moving of the detainee to another room, as well as treatment and specialist examinations in an appropriate health care facility, because of a deteriorating health condition of the detainee. Ombudsman's interventions in these cases resulted in a positive outcome, that is following a delivered implication, the health care services submitted medical reports to the competent courts, whereafter detainees were sent to specialist medical examinations at appropriate clinics.

In terms of the poor accommodation conditions in detention units, following the recommendations made by the Ombudsman, detainees were moved to other rooms with better accommodation conditions, whereby it was pointed out to the administration of the institution that urgent measures should be undertaken to adjust these facilities in terms of improving of the water and sanitary network of the rooms, whitening thereof and so on.

In this reporting period, the Ombudsman also acted on complaints where persons deprived of their liberty sought legal advice regarding the use of legal remedies before the competent courts. In these cases by the provision of timely advice, convicts used a legal remedy to the competent institution.

As in the previous years, this year, as well, it was found that the prison system has a lack of funds, especially for health care of convicts, supplying hygiene means, supply of essential products for the preparation of various meals for the convicts and other essential needs of the convicts. On the other hand, due to the unprofessional management of the facilities, the lack of educational and rehabilitation activities, and the absence of the actual process of resocialisation, it was again concluded that there is no progress in the operation of penitentiary-correctional facilities.

#### Conclusions

Overcrowding in penitentiary-correctional institutions remains a major problem, especially in the PCI "Idrizovo" and the Prison Skopje.

The conditions in which the detainees and convicted persons serve imprisonment and detention are still below minimum standards, which harm their human dignity.

Due to inadequate health care system there is no possibility to provide adequate health care, according to the national legislation and the international standards.

The educational process still does not fulfil its original function, due to the lack of experts in the educational services and inadequate management of the existing personnel.

Insufficient staffing of security services, inadequate education and lack of continuous training leading to their unprofessional conduct toward convicts.

The lack of funds that are allocated for the smooth operation of these facilities is a problem causing a sequence of irregularities in their functioning.

# Recommendations

Undertaking measures and actions towards reducing overcrowding and further improvement of the conditions of residence with full respect for the human dignity of people accommodated in these facilities.

Improving health care services in penitentiary-correctional institutions by establishing an adequate health care system.

Improvement of the work of the Office for re-education to achieve one of the primary purposes of the criminal sanction, resocialisation of convicts.

Further development and strengthening of the supervision function of the security service, to increase the level of security and prevent physical confrontations between convicts.

Undertaking appropriate measures by the competent authorities for providing the necessary funds for the normal functioning of these institutions.

# **JUDICIARY**

The functioning of the judiciary in the Republic of Macedonia through the regular courts in all three instances, the administrative courts and the judicial system in a wider meaning, this reporting year, as well has shown many weaknesses that has reflected the efficient realisation and protection of citizens' rights.

The general impression is that citizens still encounter difficulties in the exercise of the right to trial within a reasonable deadline, due to lengthy proceedings before courts and other judicial bodies and that the feeling of unequal access to justice and the conviction that judicial decisions are often a result of corrupt behaviour, are still causes for the high degree of lack of citizens' confidence in the expertise, competence and independence of the holders of judicial functions.

The analysis of data from case work shows that the current reforms in the judicial system still not sufficiently provide effective realisation and protection of the constitutional and legal rights of citizens.

Acting on complaints, examination of the statements and responses by the courts, public prosecutors' offices, executors and the Bar Association of the Republic of Macedonia confirm that the proceedings before the judicial authorities continue to last for an unjustifiably long period, that judicial decisions are often prepared with considerable delay contrary to the legal terms, that there is a long period from the submission of the remedy to the second instance decision that in the proceedings the parties sometimes remain without the necessary information which have a direct and negative impact on the effective protection of their legal rights.

The number of submitted complaints shows that citizens face the greatest difficulties in the realisation and protection of their rights in proceeding before the first instance courts, basic public prosecutor's offices and executors, and the content of the complaints confirm that citizens question the objectivity of the adopted decisions. On the other hand, the permanently large number of complaints from citizens complaining of unjustified delay in the proceedings before the Administrative Court indicates a persistent problem of inefficiency of this judicial authority, where it is decided with a delay longer than two years on the lawsuits initiating an administrative dispute.

One of the reasons for this situation in this authority of the judiciary is the poor communication of the court with the executive power bodies the administrative acts of which are disputed. Namely, it often happens that in the responses to the Ombudsman the court justifies the long course of the proceedings by the failure of submitting the records by the governing body the legal act of which is disputed. Despite the recommendations and indications of the Ombudsman that to overcome this problem which is evident they do not have to wait for the other, but that a higher level of communication is needed between the representatives of the court, the Ministry of Justice and the line ministers governing the bodies which do not act in accordance with the requests of the court, this problem, as one of the obstacles to greater efficiency of the court, has not yet been overcome.

As in the previous year, this year, as well, there was an increasing number of complaints from citizens concerning irregularities in the work of the executors and the application of the Law on Execution. The analysis of the data on the type of violations indicates that citizens usually demanded protection due to obsolescence of claims, inadequate delivery of orders for compulsory execution, complete blocking of transaction accounts maintained at commercial banks and the implementation of forced execution without regard to Article 105 of the Law on Execution.

Citizens submitted complaints to the Ombudsman, since funds that they receive on the basis of social aid, legal support or temporary unemployment were retained. Citizens also complained that although they submitted a confirmation document issued by the PI Inter-Municipal Centres for Social Work that they are beneficiaries of such aid, the executors continued with the execution, and some of the complainants were forced to sign statements that they agreed a part of these funds to be retained for payment of liabilities.

According to the Ombudsman, this manner of conducting execution proceedings is a blatant violation of the rights of citizens-debtors in execution proceedings, given that it was acting out-

side the legal provisions, and especially because of the fact that it is a category of people who are on the verge of existence and thus are not informed, how and in what manner they can protect their rights in the execution proceedings. Most interventions with positive outcomes were applied by the Ombudsman precisely in these cases.

Regarding the manner of delivery of orders for forced execution, the Ombudsman concluded that citizens are not informed and are unaware that in certain, legally prescribed conditions the delivery can be made by public announcement.

From the contacts with citizens (clients) it was concluded that not always delivery by post is applied and that complainants learn of the obligation determined by final order after their bank accounts have been blocked. In such cases the Ombudsman conducted examinations whether the delivery was made in accordance with the legal provisions, or some irregularities were made in the procedure regarding the submission of written documents. In cases where irregularities were detected, citizens were instructed to continue the procedure by filing a complaint to the President of the Basic Court in whose territory the execution is carried out.

The Ombudsman also established a problem with blocking bank accounts of citizens - debtors who receive a salary, salary compensation or pension and for whom the execution, pursuant to the Law on Execution is limited to one third of that income. In this context, the executors continued with the delivery of orders blocking all the funds from bank accounts of debtors, and the available funds are transferred to separate accounts where they keep them for approximately fifteen days and only in cases where the debtors in this period submit certificates of employers or the Pension and Disability Insurance Fund on the amount of salary and pension, their accounts are unblocked. Moreover, only in a few cases citizens were informed by the executor that a procedure for forced execution was underway, and there are even less examples when they were advised how to act in specific cases.

The Ombudsman usually directed complainants to immediately make contact with the executor, to submit the required documents, and if the executor does not act in accordance with the legal provisions, the Ombudsman submitted a written notification asking for consistent application of legal provisions. There were also interventions so that the execution would be limited up to 1/3 of the monthly income from salary or pension of the debtor, or exempting of the funds acquired on another basis from the forced execution. In most cases the executors acted in accordance with the Ombudsman's requests.

Citizens also demanded protection due to the incorrect attitude of certain lawyers, as their legal representatives in court procedures and insufficient protection of their rights by the disciplinary bodies of the Bar Association of the Republic of Macedonia.

The situation regarding the exercise of the right of citizens to a fair, impartial trial within a reasonable deadline has not improved, and among citizens-parties in court procedures, there is still a high level of conviction that judicial decisions are adopted under influence or pressure.

The lack of communication between the Administrative Court and the enforcement authorities, the acts of which are disputed, contributes to the fact that upon lawsuits of citizens initiating an administrative dispute decision is adopted with a delay longer than two years.

Despite legal limits judicial decisions are often prepared with considerable delay, which causes dissatisfaction of citizens.

Forced execution implemented by executors of the funds that citizens acquire based on social aid, legal support and temporary unemployment continues, thus jeopardising their minimum subsistence.

# Recommendations

Continuation of the reforms to strengthen the material and human resources in the courts and public prosecutors' offices, to respect the principle of a trial within a reasonable time, in order to strengthen citizens' confidence in the objectivity of the judicial proceedings.

To establish better inter-institutional cooperation between senior officials of the courts and other judicial bodies with the authorities, particularly with the enforcement authorities in order to ensure timely submission of required evidence, acts and documents required for rapid and efficient procedure.

Compliance with legal deadlines for drafting judicial decisions, especially when it comes to decisions regarding the existential rights of the parties (legal support, bankruptcy proceedings and labour disputes).

Consistent implementation of the provisions of the Law on Execution, pursuant to which funds received based on social assistance, legal support and temporary unemployment are exempt from forced execution.

# **NON-DISCRIMINATION**

The affirmative approach in the implementation of the principle of protection against discrimination is aimed at integrating all citizens in the society and creating a feeling of equality, as well as increasing citizens' confidence in institutions.

This reporting year saw a slight increase in cases of non-discrimination, with a conclusion that, as in the previous year, citizens mostly complained about discrimination on ethnic grounds. However, the fact remains that citizens lack information and knowledge about this phenomenon and the manner and mechanisms of protection. In addition, citizens still insufficiently use the instruments and mechanisms for protection against discrimination, or do not report cases of discrimination at all.

The Ombudsman in the case work indicated to the institutions in relation to which he acted under his competence that there is a prohibition of all forms of discrimination, citing domestic and international regulations that prohibit performance of discrimination. In most cases the Ombudsman's interventions were accepted, but in some cases the procedure was stopped, due to the initiation of a legal dispute by the complainants, or withdrawal of the complaints.

The Ombudsman during the reporting year acted on 63 requests for protection against discrimination of which in 30 cases citizens sought protection against discrimination based on ethnic origin. In 15 cases, violation of civil rights or discrimination was established, whereby recommendations were submitted to the authorities. The recommendations of the Ombudsman in 8 cases were accepted, a fact that indicates that the authorities acknowledged that there was a violation of human rights on ethnic grounds, and in 7 cases the recommendations were not accepted and the Ombudsman informed the Government of RM thereof.

Based on these allegations of discrimination on ethnic grounds, typical are the complaints in relation to which the Ministry of Interior accepted the recommendations of the Ombudsman, filed by citizens-members of the Roma community who were not allowed to cross the state borders. In dealing with specific cases, the Ombudsman requested information from the competent authorities of the border police, indicating the prohibition of discrimination on any grounds, and the prohibition or restriction of freedom of movement. In terms of consistent application of the regulations in this field, the Ombudsman submitted Information to the Minister of Interior and the Government of the Republic of Macedonia, where he indicated the mandatory application of the domestic and international standards in terms of guaranteeing the right to freedom of movement and the prohibition of discrimination on any grounds.

Having received a notification from a nongovernmental organisation, the Ombudsman commenced a procedure on his own initiative about the problem with registering the Roma children in primary school. Namely, at the primary school "Gjorgi Sugarev" - Municipality of Bitola, the majority population did not register their children at the school, that is they did not want their children to attend school with children from the Roma community. The Ombudsman in order to perform an analysis of the situation, undertook action and conducted a survey to collect data from all primary schools in this municipality. Survey data confirmed the presented findings for discrimination and segregation of children belonging to the Roma community.

To overcome this situation, the Ombudsman submitted a recommendation to the Municipality of Bitola, with specific directions for undertaking measures and actions to protect pupils of the Roma community from discrimination. Accepting the recommendation, the Municipality reported that a special project was developed for "Interethnic Integration in Education", by conducting special training of teachers and professional services, but also by conducting workshops in order to obey the location of residence upon registration of children in primary education.

Acting on a complaint, the Ombudsman established discrimination on ethnic grounds with elements of discrimination on grounds of political opinion in the public enterprise in the Municipality of Kumanovo. Namely, the head -member of the ruling political option and a member of the majority community, would not allow a member of the municipal council, otherwise a member of the Roma community and a member of another political party, to attend meetings of the Council.

As part of his responsibilities, the Ombudsman visited the public enterprise where the council member is employed, and performed an insight into the documentation and had conversations with several people, that is with the immediate superior, the director of the enterprise and several members of the Municipal Council.

The Ombudsman concluded that in this case there was discrimination on ethnic grounds and recommend that the Director of the enterprise should undertake action to stop the impeding and disabling the member to participate in the work of the Municipal Council, indicating the prohibition of discrimination on any grounds. The recommendation was accepted and the council member was allowed to exercise their right.

The Ombudsman, acting on complaints of discrimination in the field of labour relations, this year, as well, concluded that citizens are brought in an unequal position in the exercise of the rights of the working process.

Upon a submitted complaint for unequal treatment in the calculation and payment of gross salary, and the establishment of the pension base, the Ombudsman concluded that to employees of JSC Makedonska Posta residing at a distance of less than 2.5 km from the workplace, the allowances for transportation to and from the workplace were not calculated in the gross salary, so that they are put in an unequal situation compared to the other employees.

The Ombudsman, taking into consideration the laws and bylaws that regulate this segment of the labour relations and after inspecting the legal acts of the JSC Makedonska Posta, concluded that certain provisions of the Collective Agreement that this legal entity applies do not comply with the legal norms, and that the Decision of the Constitutional Court of the Republic of Macedonia D.No.61/2009-0-1 dated 25 November 2009, concerning the calculation of allowances in gross salary, was not implemented.

The Ombudsman intervened with an Opinion for application of the above-stated decision of

the Constitutional Court of the Republic of Macedonia, that is, gave specific guidance for correction of the disputed provision in the act of the company, which would provide the compensation for travel expenses to be included in the gross salary of all employees, which was accepted by JSC Makedonski Posti.

This reporting year as well, there were complaints of psychological harassment at the workplace - mobbing. Although the procedures in these cases are difficult to prove, in one case, after a series of actions by the Ombudsman, the problem of a high school teacher in Skopje was successfully resolved.

Namely, the high school teacher submitted a complaint to the Ombudsman for violation of the rights of the working process and committed harassment at the workplace mobbing –performed by the principal and certain persons in the school acting in "his favour", which lasted continuously for an extended period of time and resulted in the adoption of an Act of revoking the right to compensation.

Given the presented facts, indicated by the complainant and the submitted notice by the school with the attached documents, the Ombudsman concluded that a violation of workplace harassment – mobbing was committed, and as a result sent an indication to the high school principal for annulment of the individual act which violated the rights of the complainant and also for stopping of any harassment of the complainant in her further work. In his actions the Ombudsman pointed out to the fact, that the act of revoking the compensation for class teacher includes a violation from a formal and legal aspect as well, that is, it does not have any relevant reference to a legal basis, does not have a relevant disposition, reasoning and legal advice, elements that are required for any legal act, thus making it invalid and unsustainable, and that such an act constitutes a disciplinary punishment, without conducting any procedure. Within the legal timeframe, the principal informed the Ombudsman that the act, whereby her rights were violated, was annulled, and as a result the complainant exercised her right.

Regarding this issue present in the working process, the Ombudsman stated that in the month of May 2013 a special Law for protection against harassment at the workplace was adopted, whereby the suggestion of the Ombudsman given in the previous annual reports was complied with. The Ombudsman considers that this Law can contribute to improving the protection of the rights of citizens in this area.

In the course of 2013, the Ombudsman asked the municipalities for data whether following the local elections, under the provisions of the Law on Local Self-Government they established a Commission for Equal Opportunities and a Commission for Relations between Communities. From the data obtained, it can be concluded that a number of municipalities have not yet established the above-stated commissions, but sadly we have to conclude that even where commissions have been established they are not functioning or, have held a few meetings. In this context, the Ombudsman considers it necessary to remind of the obligation of the legal norm and recommends the establishment and functioning of the Commission for Equal Opportunities and the Commission for Relations between Communities, because they are aimed at improving the system of human rights, tolerance and respect for diversity of all citizens in the Republic of Macedonia.

The Ombudsman participated in the implementation of the project "Strengthening the capacity of the Ministry of Labour and Social Policy to implement the Strategy for Equality and Non-discrimination" by the Ministry of Labour and Social Policy and the British Council. He also participated in the national team of trainers, resulting in the preparation of "Guidelines for implementation of the Strategy for Equality and Non-discrimination" and "Court Handbook for Prevention and Protection from Discrimination."

This reporting year, the Ombudsman along with the research in understanding the status of implementation of the principle of equitable representation of communities, also conducted research on the gender and educational structure of employees in 1084 institutions, whereby it was demanded that in a tabular display data on the state in terms of gender (total number and number of managerial and non-managerial job positions) and education level of employees by gender and their deployment in managerial or non-managerial job positions in terms of their level of education, are submitted.

	S	LEVEL OF EDUCATION																				
	loyed	Employees by gender				University education				Co	llege e	ducatio	on	High	schoo	l educat	tion	Ва	Basic education			
	Tota empl	M	%	F	%	М	%	F	%	M	%	F	%	M	%	F	%	М	%	F	%	
Managerial job positions	9694	5353	55,22	4341	44,78	4515	46,58	3653	37,68	198	2,04	146	1,51	578	5,96	519	5,35	64	0,66	21	0,22	
Non-managerial job positions	98342	51010	51,87	47332	48,13	16620	16,90	23452	23,85	2795	2,84	3525	3,58	24540	24,95	16834	17,12	7097	7,22	3459	3,52	
Employees of the body	108036	56363	52,17	51673	47,83	21135	19,56	27105	25,09	2993	2,77	3671	3,40	25118	23,25	17373	16,08	7161	6,63	3480	3,22	
Т		108036			48240			6664						10641								

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

The analysis of the delivered data shows that from the total number of 108,036 employees in the institutions, 56,363 are men (52.17%) and 51,673 (47.83%) are women. In terms of the managerial job positions, it can be concluded from the table overview that the representation of women in managerial positions in the institutions equals 4,341 (44,78%), while the share of men equals 5,353 (55,22%). There is similar ratio in non-managerial job positions as well, where the representation of women is 47, 332 (48.13%), while the share of men is 51,010 (51.87%).

Of the total number of employees in the public sector, 48,240 (44.65%) have university education of whom 27,105 (25.09%) are women and 21,135 (9.56%) are men, of them in managerial job positions 3.653 (37.68%) are women and 4,515 (46.58%) are men, while in non-managerial job positions 23,452 (23.85%) are women and 16,620 (16.90%) are men. From the stated data, the Ombudsman concluded that although in the total number of employees in the public sector with university education, women are more represented than men, yet men are more prevalent at managerial job positions.

In terms of the gender structure and the level of college education, from the total number of employees in the public sector 6664 (6.17%) have college education, of whom 3671 (3.40%) are women and 2993 (2.77%) are men. Of those at managerial job positions 146 (1.51%) are women and 198 (2.04%) are men. At non-managerial job positions 3525 (3.58%) are women and 2795 (2.84%) are men. Based on the data presented, the Ombudsman concluded that in the public sector more women than men with college education are employed, but there are still more men at managerial job positions.

Of the total number of employees in the public sector 42491 (39.33%) are with secondary education, of whom 17373 (16.08%) are women, and 25118 (23.25%) are men, of them at managerial job positions 519 (5.35%) are women and 578 (5.96%) are men, while at non-managerial job positions 16,834 (17.12%) are women, and 24540 (24.95%) are men. Based on these data, the Ombudsman concluded an approximate ratio of jobs regarding the gender structure for secondary education.

The data analysis showed that from the total number of employees in the public sector  $10,641 \ (9.85 \ \%)$  have primary education, of whom  $3480 \ (3.22\%)$  are women and  $7161 \ (6.63\%)$  are men.

Considering this situation, the Ombudsman emphasises the need for respecting the principle of equality between men and women, that is proper allocation of jobs on the basis of gender and level of education, especially at the managerial job positions.

Discrimination is present in our society, particularly discrimination on ethnic and political grounds, and citizens still not sufficiently recognise the shapes and forms of this phenomenon, as well as instruments and mechanisms for protection.

There is lack of quality training to strengthen the capacities of institutions against discrimination, as well as informational and educational campaigns for raising citizens' awareness for recognising discrimination in all manifested forms and possibilities for protection.

Increased number of complaints of discrimination based on ethnicity of members of the Roma community, due to their return from border crossings of the Republic of Macedonia.

#### **Recommendations**

Undertaking activities by competent institutions for more effective prevention and protection from discrimination, by means of consistent application of the regulations in this area.

Conducting training for the staff in the institutions for protection from discrimination, and educational campaigns for raising citizens' awareness for consistent application of the standards of equality, tolerance and respect for diversity.

Mandatory application of domestic and international standards in terms of guaranteeing the right of free movement of citizens.

# ADEQUATE AND EQUITABLE REPRESENTATION

In order to monitor the situation in respect of the application of the principle of adequate and equitable representation of the members of communities, as an affirmative measure, the Ombudsman this year as well provided data from the institutions to which he is authorised to act.

Namely, the Ombudsman having previously prepared tables referred to the state government bodies, autonomous bodies and organisations, local self-government units, health care, cultural and educational institutions, courts and prosecutor's offices and to other facilities and services to which he is in charge to act. In 2013 reporting year written requests with previously prepared tables for completion were submitted to 1084 institutions, that is 17 institutions less than in the previous year¹. Upon the submitted requests, data were delivered by 1049 institutions, while 35 institutions despite written interventions and phone contacts did not provide data. In this context, it is necessary to point out that some institutions in the field of education (primary 7, secondary 5 and university 1), and in the culture area at the local level, did not provide data, thus impeding the work of the Ombudsman. The Public Prosecutor's Office of the Republic of Macedonia submitted summarised data for all Public Prosecutor's Offices and the Basic Public Prosecutor's Office for Organised Crime and Corruption did not submit any data. Summarised university-level data were submitted by the universities in Shtip and Tetovo.

<sup>&</sup>lt;sup>1</sup> It should be noted that pursuant to Article 16 of the Law on Territorial Organisation of Local Self-Government in the Republic of Macedonia, to the Municipality of Kicevo four municipalities were added, namely: Vranestica, Drugovo, Oslomej and Zajas. In addition, public enterprises and other institutions at the local level with the termination of these municipalities, merged with the respective existing institutions of the Municipality of Kicevo.

# **Summary tabular overview for 2013**

						ΑI	DEQUA	ATE AN	ID EQL	JITABL	E REP	RESEN	N					
			Maced	onian	Albar	nian	Tui	rk	Ror	na	Se	rb	Vlach		Bosniak		Oth	er
		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Cabinet of the	managerial posts	14	11	78,6	3	21,4		0,0		0,0		0,0		0,0		0,0		0,
President of RM -	non-managerial posts	30	27	90,0		0,0	1	3,3		0,0		0,0	2	6,7		0,0		0,
Expert Service	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,
	managerial posts	60	43	71,7	15	25,0	1	1,7		0,0		0,0		0,0		0,0	1	1,
Parliament of RM -	non-managerial posts	229	165	72,1	55	24,0	3	1,3	1	0,4	3	1,3		0,0	2	0,9		0,
Expert Service	employees at the body	289	208	72,0	70	24,2	4	1,4	1	0,3	3	1,0	0	0,0	2	0,7	1	0,
	managerial posts	33	20	60,6	8	24,2		0,0	1	3,0	1	3,0	2	6,1	1	3,0		0,
The Ombudemen	non-managerial posts	44	13	29,5	23	52,3	1	2,3	2	4,5	2	4,5	1	2,3	1	2,3	1	2,
The Ombudsman	employees at the body	77	33	42,9	31	40,3	1	1,3	3	3,9	3	3,9	3	3,9	2	2,6	1	1,
State Commission for	managerial posts	12	10	83,3	2	16,7		0,0		0,0		0,0		0,0		0,0		0,
Prevention from	non-managerial posts	12	6	50,0	3	25,0		0,0		0,0	1	8,3	1	8,3		0,0	1	8
Corruption	employees at the body	24	16	66,7	5	20,8	0	0,0	0	0,0	1	4,2	1	4,2	0	0,0	1	4,
	managerial posts	10	7	70,0	2	20,0	1	10,0		0,0		0,0		0,0		0,0		0,
Constitutional Court of		15	13	86,7	1	6,7		0,0		0,0	1	6,7		0,0		0,0		0,
RM	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,
	managerial posts	20	12	60,0	6	30,0		0,0		0,0		0,0	1	5,0	1	5,0		0,
	non-managerial posts	24	22	91,7	1	4,2	1	4,2		0,0		0,0		0,0		0,0		0,
Judicial Council of RM	employees at the body	44	34	77,3	7	15,9	1	2,3	0	0,0	0	0,0	1	2,3	1	2,3	0	0,
	managerial posts	10	10	100,0		0,0		0,0		0,0		0,0		0,0		0,0		0,
Higher Administrative	non-managerial posts	13	10	76,9	3	23,1		0,0		0,0		0,0		0,0		0,0		0,
Court	employees at the body	23	20	87,0	3	13,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0,
	managerial posts	32	22	68,8	7	21,9	1	3,1		0,0		0,0	1	3,1	1	3,1		0,
	non monogorial posts	49	38	77,6	9	18,4	2	4,1		0,0		0,0		0,0		0,0		0,
Administrative Court of RM											_	•	_				_	
KIVI	employees at the body	81	60	74,1	16	19,8	3	3,7	0	0,0	0	0,0	1	1,2	1	1,2	0	0,
	managerial posts	33	26	78,8	5	15,2		0,0		0,0	1	3,0	1	3,0		0,0		0,
	non-managerial posts	49	47	95,9	1	2,0		0,0		0,0	1	2,0		0,0		0,0		0,
Supreme Court of RM	employees at the body	82	73	89,0	6	7,3	0	0,0	0	0,0	2	2,4	1	1,2	0	0,0	0	0,
	managerial posts	13	9	69,2	3	23,1		0,0		0,0		0,0	1	7,7		0,0		0,
Public Prosecution of	non-managerial posts	14	12	85,7	2	14,3		0,0		0,0		0,0		0,0		0,0		0,
RM (2012)*	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,
(== 1.=)						-												
	managerial posts	38	36	94,7	2	5,3		0,0		0,0		0,0		0,0		0,0		0,
	non-managerial posts	74	56	75,7	13	17,6	1	1,4		0,0	2	2,7		0,0	2	2,7		0,
State Attorney of RM	employees at the body	112	92	82,1	15	13,4	1	0,9	0	0,0	2	1,8	0	0,0	2	1,8	0	0,
	managerial posts	11	7	63,6	2	18,2		0,0		0,0	2	18,2		0,0		0,0		0,
	non-managerial posts	5	5	100,0		0,0		0,0		0,0		0,0		0,0		0,0		0,
Public Prosecutors Council							_				_						_	
Council	employees at the body	16	12	75,0	2	12,5	0	0,0	0	0,0	2	12,5	0	0,0	0	0,0	0	0,
	managerial posts	106	100	94,3	3	2,8		0,0		0,0	1	0,9	2	1,9		0,0		0,
	non-managerial posts	337	288	85,5	27	8,0	3	0,9		0,0	13	3,9	5	1,5		0,0	1	0,
National Bank or RM	employees at the body	443	388	87,6	30	6,8	3	0,7	0	0,0	14	3,2	7	1,6	0	0,0	1	0,
	,,			,-		-,-		-,-		-,-		-,-		-,-		-,-		-,-
State Election	managerial posts	32	19	59,4	11	34,4		0,0		0,0		0,0		0,0		0,0	2	6,
Commission - Expert	non-managerial posts	74	47	63,5	21	28,4		0,0		0,0	1	1,4	4	5,4		0,0	1	1,
Service	employees at the body	106	66	62,3	32	30,2	0	0,0	0	0,0	1	0,9	4	3,8	0	0,0	3	2,
	managorial needs	10	40	100.0		0.0		0.0		0.0		0.0		0.0		0.0		^
Macedonian Academy of Sciences and Arts -	managerial posts		10	100,0		0,0		0,0		0,0		0,0		0,0		0,0		0,
	non-managerial posts	44	39	88,6	2	4,5	1	2,3		0,0	2	4,5		0,0		0,0		0,
Skopje	employees at the body	54	49	90,7	2	3,7	1	1,9	0	0,0	2	3,7	0	0,0	0	0,0	0	0,
	managorial posts	920	677	90.7	127	15.4	4	0.4	2	0.4	47	2.0		0.0		0.0	4.4	4
	managerial posts	839	677	80,7	127	15,1	1	0,1	3	0,4	17	2,0		0,0		0,0	14	1,
willistry of litterior	non-managerial posts	10191	7863	77,2	1866	18,3	78	0,8	71	0,7	162	1,6		0,0	30	0,3	121	1,:
	employees at the body	11030	8540	77,4	1993	18,1	79	0,7	74	0,7	179	1,6	0	0,0	30	0,3	135	1,

						ΑĽ	)EQU/	ATE AN	D EQI	JITABLE	REPI	RESEN	TATIO	N				
			Macedo	nian	Albar	nian	Tu	rk	Roi	ma	Ser	b	Vla	ch	Bosniak		Oth	er
		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
	managerial posts	72	52	72,2	17	23,6	1	1,4		0,0	1	1,4		0,0	1	1,4		0,0
	non-managerial posts	376	220	58,5	129	34,3	11	2,9		0,0	4	1,1	8	2,1	1	0,3	3	0,8
Ministry of Economy	employees at the body	448	272	60,7	146	32,6	12	2,7	0	0,0	5	1,1	8	1,8	2	0,4	3	0,7
Ministry of	managerial posts	63	50	79,4	9	14,3	1	1,6		0,0	1	1,6	2	3,2		0,0		0,0
Environment and	non-managerial posts	160	92	57,5	62	38,8	1	0,6		0,0	3	1,9		0,0		0,0	2	1,3
Spatial Planning	employees at the body	223	142	63,7	71	31,8	2	0,9	0	0,0	4	1,8	2	0,9	0	0,0	2	0,9
	managerial posts	60	50	83,3	9	15,0		0,0		0,0		0,0		0,0		0,0	1	1,7
	non-managerial posts	140	52	37,1	80	57,1	3	2,1	1	0,7	2	1,4	1	0,7	1	0,7		0,0
Ministry of Health	employees at the body	200	102	51,0	89	44,5	3	1,5	1	0,5	2	1,0	1	0,5	1	0,5	1	0,5
Ministry of Agriculture,	managerial posts	148	133	89,9	11	7,4	1	0,7		0,0	1	0,7	1	0,7		0,0	1	0,7
Forestry and Water	non-managerial posts	885	678	76,6	149	16,8	18	2,0	6	0,7	18	2,0	5	0,6	8	0,9	3	0,3
Economy	employees at the body	1033	811	78,5	160	15,5	19	1,8	6	0,6	19	1,8	6	0,6	8	0,8	4	0,4
Ministry of Informatics	managerial posts	21	18	85,7	2	9,5		0,0		0,0	1	4,8		0,0		0,0		0,0
Society and Public	non-managerial posts	99	75	75,8	11	11,1	2	2,0	2	2,0	3	3,0	3	3,0	2	2,0	1	1,0
Administration	employees at the body	120	93	77,5	13	10,8	2	1,7	2	1,7	4	3,3	3	2,5	2	1,7	1	0,8
	managerial posts	42	34	81,0	5	11,9	1	2,4	_	0,0	1	2,4	1	2,4	_	0,0		0,0
	non-managerial posts	102	44	43,1	48	47,1	2	2,0	1	1,0	4	3,9	1	1,0	2	2,0		0,0
Ministry of Culture	employees at the body	144	78	54,2	53	36,8	3	2,1	1	0,7	5	3,5	2	1,4	2	1,4	0	0,0
	managerial posts	14	10	71,4	4	28,6		0,0		0,0		0,0		0,0		0,0		0,0
Ministry of Local Self	non-managerial posts	30	7	23,3	22	73,3	1	3,3		0,0		0,0		0,0		0,0		0,0
Government	employees at the body	44	17	38,6	26	59,1	1	2,3	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
Ministry of Foreign	managerial posts	143	119	83,2	15	10,5	3	2,1		0,0	3	2,1		0,0	1	0,7	2	1,4
	non-managerial posts	349	241	69,1	89	25,5	6	1,7	3	0,9	3	0,9	3	0,9	1	0,3	3	0,9
Affairs	employees at the body	492	360	73,2	104	21,1	9	1,8	3	0,6	6	1,2	3	0,6	2	0,4	5	1,0
	managerial posts	24	18	75,0	5	20,8		0,0		0,0	1	4,2		0,0		0,0		0,0
Ministry of Education	non-managerial posts	263	162	61,6	78	29,7	9	3,4	1	0,4	9	3,4	1	0,4	3	1,1		0,0
and Science	employees at the body	287	180	62,7	83	28,9	9	3,1	1	0,3	10	3,5	1	0,3	3	1,0	0	0,0
	managerial posts	90	77	85,6	9	10,0	2	2,2		0,0	1	1,1	1	1,1		0,0		0,0
	non-managerial posts	772	616	79,8	113	14,6	10	1,3	2	0,3	7	0,9	7	0,9	10	1,3	7	0,9
Ministry of Defense	employees at the body	862	693	80,4	122	14,2	12	1,4	2	0,2	8	0,9	8	0,9	10	1,2	7	0,8
	managerial posts	43	37	86,0	4	9,3		0,0		0,0	1	2,3		0,0	1	2,3		0,0
	non-managerial posts	210	114	54,3	81	38,6	6	2,9	3	1,4	2	1,0	2	1,0	1	0,5	1	0,5
Ministry of Justice	employees at the body	253	151	59,7	85	33,6	6	2,4	3	1,2	3	1,2	2	0,8	2	0,8	1	0,4
	managerial posts	67	61	91,0	4	6,0	1	1,5		0,0	1	1,5		0,0		0,0		0,0
Ministry of Transport	non-managerial posts	248	180	72,6	52	21,0	8	3,2	1	0,4	3	1,2	1	0,4	2	0,8	1	0,4
and Communications	employees at the body	315	241	76,5	56	17,8	9	2,9	1	0,3	4	1,3	1	0,3	2	0,6	1	0,3
	managerial posts	49	36	73,5	6	12,2		0,0	3	6,1	2	4,1	2	4,1		0,0		0,0
Ministry of Labor and Social Policy	non-managerial posts	409	256	62,6	121	29,6	5	1,2	8	2,0	8	2,0	7	1,7	3	0,7	1	0,2
Social Policy	employees at the body	458	292	63,8	127	27,7	5	1,1	11	2,4	10	2,2	9	2,0	3	0,7	1	0,2
	managerial posts	99 567	87 479	87,9 84,5	66	8,1 11,6	4	1,0 0,7	3	0,0	7	1,0	4	2,0 0,7	3	0,0	1	0,0
Ministry of Einenses	non-managerial posts			04,3		11,0		0,7		0,5		1,2		0,7		0,5		0,2
Ministry of Finances	employees at the body	666	566	040	74		5		3		8	4.0	6		3	4.0	1	
	managerial posts	53	45	84,9	4	7,5	2	3,8	0	0,0	1	1,9		0,0	1	1,9		0,0
	non-managerial posts	294	159	54,1	8	2,7	55	18,7	45	15,3	9	3,1	7	2,4	9	3,1	2	0,7
General Secretariat	employees at the body	347	204	58,8	12	3,5	57	16,4	45	13,0	10	2,9	7	2,0	10	2,9	2	0,6
	managerial posts	8	7	87,5		0,0		0,0		0,0	1	12,5		0,0		0,0		0,0
General Services	non-managerial posts	363	321	88,4	21	5,8	4	1,1	5	1,4	5	1,4	2	0,6	3	0,8	2	0,6
Department	employees at the body	371	328	88,4	21	5,7	4	1,1	5	1,3	6	1,6	2	0,5	3	0,8	2	0,5
	managerial posts	8	7	87,5		0,0		0,0		0,0		0,0	1	12,5		0,0		0,0
Legislation Secretariat	non-managerial posts	14	10	71,4	3	21,4	1	7,1		0,0		0,0		0,0		0,0		0,0
	employees at the body	22	17	77,3	3	13,6	1	4,5	0	0,0	0	0,0	1	4,5	0	0,0	0	0,0
	managerial posts	22	17	77,3	4	18,2		0,0		0,0		0,0	1	4,5		0,0		0,0
Convotoriat for	non-managerial posts	78	50	64,1	17	21,8	2	2,6	2	2,6	2	2,6	3	3,8	1	1,3	1	1,3
Secretariat for European Issues	employees at the body	100	67	67,0	21	21,0	2	2,0	2	2,0	2	2,0	4	4,0	1	1,0	1	1,0

			Macedo	nian	Albar	nian	Tui	·k	Do	ma	900	h	Vlad	h	Room	Other		
			wacedo	лпаП	Albar	ııdıı	Tul	ĸ	Roi	ıld	Ser	Ŋ	via	A11	Bosn	iidK	Otr	ier
		ta	<u> </u>		<u>ra</u>		<u>a</u>		<u> </u>		<u>ra</u>		<u>ra</u>		<u>e</u>		<u> </u>	
Secretariat for		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Implementation of the	managerial posts	51		0,0	48	94,1	1	2,0		0,0		0,0		0,0	2	3,9		0
Framework Agreement	non-managerial posts	1630	26	1,6	1341	82,3	134	8,2	93	5,7	10	0,6	7	0,4	19	1,2		0
*	employees at the body	1681	26	1,5	1389	82,6	135	8,0	93	5,5	10	0,6	7	0,4	21	1,2	0	0
	managerial posts	20	15	75,0	3	15,0	1	5,0	0	0,0	0	0,0	1	5,0	0	0,0	0	0
Higher Public	non-managerial posts	45	35	77,8	9	20,0	1	2,2	0	0,0	0	0,0	0	0,0	0	0,0	0	0
Prosecutions	employees at the body	65	50	76,9	12	18,5	2	3,1	0	0,0	0	0,0	1	1,5	0	0,0	0	0
	managerial posts	89	74	83,1	15	16,9	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0	0	0
Basic Public	non-managerial posts	207	171	82,6	25	12,1	4	1,9	1	0,5	1	0,5	4	1,9	1	0,5	0	0
Prosecutions	employees at the body	296	245	82,8	40	13,5	4	1,4	1	0,3	1	0,3	4	1,4	1	0,3	0	0
	managerial posts	109	80	73,4	23	21,1	1	0,9	0	0,0	0	0,0	2	1,8	0	0,0	3	2
	non-managerial posts	232	195	84,1	23	9,9	2	0,9	0	0,0	1	0,4	9	3,9	1	0,4	1	0
Appellate Courts	employees at the body	341	275	80,6	46	13,5	3	0,9	0	0,0	1	0,3	11	3,2	1	0,3	4	1
	managerial posts	481	385	80,0	66	13,7	3	0,6	1	0,2	9	1,9	9	1,9	4	0,8	3	0
	non-managerial posts	1851	1543	83,4	196	10,6	29	1,6	24	1,3	19	1,0	26	1,4	6	0,3	5	0
Basic Courts	employees at the body	2332	1928	82,7	262	11,2	32	1,4	25	1,1	28	1,2	35	1,5	10	0,4	8	0
	managerial posts	150	117	78,0	29	19,3	1	0,7	0	0,0	2	1,3	1	0,7	0	0,0	0	0
	non-managerial posts	1308	1069	81,7	188	14,4	3	0,2	3	0,2	18	1,4	21	1,6	2	0,2	4	0
Funds	employees at the body	1458	1186	81,3	217	14,9	4	0,3	3	0,2	20	1,4	22	1,5	2	0,1	4	0
	managerial posts	78	58	74.4	17	21,8	1	1,3	1	1,3	0	0,0	0	0,0	0	0,0	1	1
0	non-managerial posts	881	684	77,6	132	15,1	14	1,6	18	2,0	11	1,2	11	1,2	3	0,3	8	0
Centers for Social Work	employees at the body	959	742	77,3	149	15,6	15	1,6	19	2,0	11	1,1	11	1,1	3	0,3	9	0
TOTAL		693	547	78,9	109	15,7	10	1,4	3	0,4	6	0,9	5	0,7	2	0,3	11	1
	managerial posts																	
Local Self Government	non-managerial posts	4465	3448	77,2	769	17,2	84	1,9	34	0,8	62	1,4	27	0,6	14	0,3	27	0
Units	employees at the body	5158	3995	77,5	878	17,0	94	1,8	37	0,7	68	1,3	32	0,6	16	0,3	38	0
correctional and	managerial posts	37	29	78,4	7	18,9	0	0,0	1	0,0	1	2,7	0	0,0	0	0,0	0	0
Educational- correctional	employees at the body	578 615	492 521	85,1 84,7	73 80	12,6 13,0	0	0,0	1	0,2	3	0,5	9	1,6	0	0,0	0	0
Corrodional		956	793	82,9	109	11,4	8		2	0,2	16	1,7	14		5	0,5	9	0
	managerial posts	8746	6891	78,8	1413	16,2	109	0,8 1,2	59	0,2	118	1,7	70	1,5 0,8	33	0,5	53	0
Independent state bodies			7684												38		62	0
boules	employees at the body	9702		79,2	1522	15,7	117	1,2	61	0,6	134	1,4	84	0,9		0,4		
	managerial posts	1253	1048	83,6	140	11,2	10	0,8	4	0,3	28	2,2	8	0,6	5	0,4	10	0
	non-managerial posts	15649	12050	77,0	1926	12,3	332	2,1	672	4,3	306	2,0	83	0,5	73	0,5	207	1
Public enterprises	employees at the body	16902	13098	77,5	2066	12,2	342	2,0	676	4,0	334	2,0	91	0,5	78	0,5	217	1
	managerial posts	2357	1997	84,7	202	8,6	26	1,1	0	0,0	63	2,7	32	1,4	15	0,6	22	0
	non-managerial posts	12765	10424	81,7	1543	12,1	156	1,2	137	1,1	249	2,0	75	0,6	63	0,5	118	0
Public Health	employees at the body	15122	12421	82,1	1745	11,5	182	1,2	137	0,9	312	2,1	107	0,7	78	0,5	140	0
	managerial posts	423	235	55,6	154	36,4	16	3,8	0	0,0	6	1,4	3	0,7	4	0,9	5	1
	non-managerial posts	17523	11512	65,7	4902	28,0	534	3,0	77	0,4	201	1,1	76	0,4	66	0,4	155	0
Elementary education	employees at the body	17946	11747	65,5	5056	28,2	550	3,1	77	0,4	207	1,2	79	0,4	70	0,4	160	0
	managerial posts	164	116	70,7	40	24,4	4	2,4	0	0,0	3	1,8	1	0,6	0	0,0	0	0
	non-managerial posts	7919	5891	74,4	1661	21,0	143	1,8	24	0,3	104	1,3	51	0,6	14	0,2	31	0
High education	employees at the body	8083	6007	74,3	1701	21,0	147	1,8	24	0,3	107	1,3	52	0,6	14	0,2	31	0
	managerial posts	318	248	78,0	51	16,0	1	0,3	0	0,0	7	2,2	4	1,3	2	0,6	5	1
	non-managerial posts	2027	1575	77,7	392	19,3	10	0,5	5	0,2	15	0,7	21	1,0	1	0,0	8	0
Higher education	employees at the body	2345	1823	77,7	443	18,9	11	0,5	5	0,2	22	0,9	25	1,1	3	0,1	13	0
	managerial posts	242	205	84,7	27	11,2	1	0,4	0	0,0	6	2,5	1	0,4	0	0,0	2	0
In additional time and the	non-managerial posts	5973	5169	86,5	443	7,4	81	1,4	42	0,7	119	2,0	52	0,9	20	0,3	47	0
Institutions with various activities	employees at the body	6215	5374	86,5	470	7,6	82	1,3	42	0,7	125	2,0	53	0,9	20	0,3	49	0
Turious activities																		
	managerial posts	9719	7824	80,5	1352	13,9	101	1,0	18	0,2	186	1,9	100	1,0	46	0,5	92	0,
	non-managerial posts	98359	73582	74,8	18213	18,5	1875	1,9	1347	1,4	1514	1,5	610	0,6	401	0,4	817	0,
TOTAL																		

			ADEQUATE AND EQUITABLE REPRESENTATION															
			Macedo	onian	Albar	Albanian		Turk		Roma		b	Vlach		Bosniak		Oth	er
		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Data for comparison	2013	108078	81406	75,3	19565	18,1	1976	1,8	1365	1,3	1700	1,6	710	0,7	447	0,4	909	0,8
	2012	107238	80588	75,1	19073	17,8	2160	2,0	1380	1,3	1701	1,6	734	0,7	582	0,5	1020	1,0

#### Notification text:

- 1. The Secretariat for implementation of the Framework Agreement delivered total data containing part of the persons employed by announcement, who have not yet been deployed in the state administration bodies.
- 2. The State University of Tetovo and the University "Goce Delchev" from Shtip unlike the previous year submitted summarised data.
- 3. The data of the Basic Public Prosecutor's Office of the Republic of Macedonia and the Basic Prosecutor's Office for Organised Crime and Corruption are not updated.

	•	_															
		Macedonians		Albai	nians	Tu	rks	Roi	ma	Ser	bs	Vla	ichs	Bos	niaks	Ot	her
Years	Total employees	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
2013	108078	81406	75,3	19565	18,1	1976	1,8	1365	1,3	1700	1,6	710	0,7	447	0,4	909	0,8
2012	107851	81095	75,2	19151	17,8	2164	2,0	1383	1,3	1709	1,6	741	0,7	585	0,5	1023	0,9
2011	102103	77879	76,3	17598	17,2	1691	1,7	1304	1,3	1665	1,6	678	0,7	387	0,4	901	0,9
2010	82555	63761	77,23	13966	16,92	1340	1,62	574	0,70	1315	1,59	570	0,69	256	0,31	773	0,94
2009	69148	55266	79,92	9712	14,05	895	1,29	551	0,80	1301	1,88	524	0,76	259	0,37	640	0,93
2008	67728	55193	81,49	8642	12,76	825	1,22	527	0,78	1269	1,87	449	0,66	205	0,30	618	0,91
2007	59629	49923	83,72	6429	10,78	649	1,09	464	0,78	1050	1,76	405	0,68	201	0,34	508	0,85

# Comparing Table Overview 2007-2013

From the obtained data it can be concluded that there is some progress in the implementation of the principle of adequate and equitable representation, but there are still many institutions that have not yet reached the mandatory level of adequate and equitable representation. Taking that into consideration, the Ombudsman found that in some institutions the principle of adequate and equitable representation is insufficiently applied and implemented, whereby he emphasises that this is particularly typical when the data for the presence of members of the smaller communities are analysed, as well as for managerial job positions.

In fact, this year, as in previous years, it can be concluded that in public enterprises, public health, penitentiary-correctional and educational-correctional institutions the application of the principle of adequate and equitable representation is still not yet at the required level. This conclusion is present both in terms of managerial job positions, and non-managerial job positions in these institutions, so that the Ombudsman expresses public criticism for these entities and also gives a direct recommendation to all institutions for proper implementation of the principle of adequate and equitable representation of communities.

For the purpose of overcoming the present problems in the implementation of the principle of adequate and equitable representation, the Ombudsman considers it necessary to continue the actions and measures for promotion of this constitutional principle, especially the institutions that have not reached the appropriate level of implementation of the principle of adequate and equitable representation should undertake immediate action to fulfil this constitutional postulate. On the other hand, he believes that it is necessary to dedicate particular attention to the implementation of the principle of adequate and equitable representation of members of the smaller communities, particularly in terms of filling managerial positions.

In the reporting year 2013, the Ombudsman within the case work had a small number of cases (3) regarding the implementation of the principle of adequate and equitable representation

of members of the communities, all of which were related to the observance of this principle in conducting of job advertisements in the bodies to which the Ombudsman acts.

Acting on these complaints, the Ombudsman pointed out the need for consistent application of the principle of adequate and equitable representation, whereby a positive example would be the action on a complaint by a citizen - member of the Vlach ethnic community, who met the requirements for admission to the Military Academy, but was not admitted. The Ombudsman pointed out to the competent authority of the need for application of this principle, which was accepted by expanding the quota of applicants admitted upon the public notice, whereby the complainant exercises their right.

#### Conclusions

There has been little progress regarding the application of the principle of adequate and equitable representation of representatives of all the communities. However, in certain institutions the application of this principle is not yet satisfactory, especially the representation of members of smaller ethnic communities.

Lack of consistent implementation of the application of the principle of adequate and equitable representation also in terms of the deployment of management job positions to members of non -majority communities, especially the members of the smaller ethnic communities.

#### Recommendations

Mandatory compliance and application of the principle of adequate and equitable representation of members of all communities, especially the members of the smaller ethnic communities.

Strengthening the activities for implementation of the principle of adequate and equitable representation in terms of managerial job positions to members of non-majority communities.

# **OTHER RIGHTS**

According to their contents and the stated requests, the complaints distributed in this area are usually beyond the scope of competences of the Ombudsman, where the actions upon the complaints in this area taken by the Ombudsman are directed towards helping the submitters of the complaints in indirect manner, by giving legal advice and the manner in which they can seek protection of their rights.

This year, a significant portion of the complaints referred to the untimely actions taken by the state government bodies and other bodies and organizations that have public authorizations upon the requests of the citizens, which is why for their actions, the Ombudsman indicated to the bodies before which the complaints had been submitted were obliged to act upon them and provide answers to the submitters.

Unlike the previous year, this year the complaints submitted by legal entities were in smaller numbers, however in those cases the Ombudsman advised them on the possibility and manner of exercising their rights.

# **LOCAL SELF-GOVERNMENT**

The democratic development of a society should not be judged only by the legal guarantees that the state provides for its citizens in the exercising of their rights, but also by the manner of their immediate and unobstructed exercising by the local government and the functioning of the mechanisms for protection of these rights.

The decentralization process enables for the local problems of citizens to be resolved by improving the services, participation by the citizens themselves and more efficient control of the activities of the local self-government.

The general conditions, following the implementation of the decentralization process in the Republic of Macedonia, indicate that the municipalities although they got wider and higher jurisdictions, however, remain dependent on the central government in relation to the financial support of the areas that they manage. Specifically, certain municipalities owe funds for payment of travel expenses for the pupils, for heating of schools, municipalities with blocked accounts, which hinders their regular functioning, while some municipalities are facing technical and personnel problems. All of this contributes to the dissatisfaction of the citizens with the quality of public services they get from the local government. Moreover, the citizens are reacting to the lack of involvement of minority communities on local level, both from non-managing and managing job positions, and the disregard for the criteria of professionalism and competence. Thus, in certain local self-governments there is total disregard for the principle of appropriate and fair representation of minority communities, which is guaranteed with the Constitution and the laws.

As problems that contribute to this situation, the Ombudsman detected insufficient transparency, accountability, and responsibility of the municipalities, as well as inadequately efficient manners in which the municipalities respond to and resolve problems, requests and expectations of the citizens.

A municipality that works according to good governance independently finds and uses manners and forms that enable citizens' involvement in the decision-making process on local level, by emphasizing the importance of this right which largely determines the life and work of citizens. Although compared to the situation from few years back, particularly in this sphere of decentralization, progress can be felt. Nevertheless, higher participation of citizens in the decision-making process in the municipalities remains a need and a challenge for the future. The Ombudsman believes that the decision-making process of local government should be continuously improved, while enabling the citizens to express their opinions and contribute to the overall planning and development in the areas of competences of municipalities, thus contributing to the increase in the trust and cooperation between the citizens and the local government.

The Ombudsman, acting upon the complaints submitted by the citizens, as well from the conditions found during the implementation of the Operation Program for 2013, in this part of the Annual Report presents the findings on the degree of exercising the rights of citizens before the local government, per individual area within the competence of the local self-government.

# **Urban planning and construction**

Spatial planning is exceptionally significant for the overall development of the municipalities. Through the information included in the spatial plans, and which refer to the natural resources for the municipality, the situation and directions for development, the citizens can properly channel their interests in work, life and culture. By creating planning preconditions for opening – construction of new economic entities, new jobs open for the local population to be employed, and such employment improves the socio-economic status of the residents. Therefore, each municipality that wishes to develop its economy and provide better living conditions for its population, must continuously adopt, revise, supplement and amend the urban spatial

plans, following the contemporary development trends in the country and abroad.

The monitoring of the conditions in this domain shows that this report year multiple municipalities adopted new detailed urban plans, which anticipate construction of economic capacities, with the goal of further development of the municipality and, obviously, employment opportunities for the local population.

The benefits provided by the detailed urban plans should not be misused by the local authorities, at the detriment of the space and primarily protection and improvement of the nature and the environment. It should not be allowed, on account of economic development of a municipality, to destroy the environment, to destroy green areas and parks, as natural filters for the polluted air that is unfortunately a problem facing many municipalities. The skilfulness of the local authorities lies in making the right judgment and in no way leading to the endangerment of the health of the local populace.

It is characteristic for the detailed urban plans that they do not comply with the legal provisions regarding the validity of the adopted detailed urban plans, although pursuant to the Law on Spatial and Urban Planning, prior to the expiry of the deadline, the adopter of the plan needs to, at least once a year, conduct expert analysis of the plans, thereby determining if there is a need for modifications and amendments to the plan. In many municipalities the plans have not been revised in 10 to 15 years, and this constitutes an obstacle in the governance of property owned by the citizens.

The Ombudsman, acting upon these complaints, advised the local governments that ownership creates rights and obligations and should serve both the individual and the community. The Ombudsman also emphasized that the Constitution of the Republic of Macedonia guarantees the right to ownership, and the rights arising from ownership cannot be taken away or limited, except in cases of public interest defined by Law, such as the arrangement, rational use and humanization of space, protection and improvement of the nature and the environment.

Furthermore, taking into consideration the European Convention for the Protection of Human Rights and Fundamental Freedoms, regarding the right to ownership or when can a natural person or a legal entity be deprived of the right to enjoy their property, the Ombudsman emphasized the need for consistent compliance with the legal provisions and the performance of professional analysis of current plans, with the goal of their implementation and commencement of the expropriation procedures, or following the realization of the inability for their implementation for whatever reason (usually of financial nature), to proceed with their modification, in order to enable unhindered handling by the citizens of their property.

To substantiate the above, and acting upon a complaint from a citizen of Bitola, the Ombudsman stated that, pursuant to the detailed urban plan (DUP), the facility of the citizen was not kept in the 1989 DUP and the facility enters a profile of a planned street. This situation unquestionably limits the citizens in handling their own property for over 23 years, since on one hand, the planned street has not been constructed in 23 years, while on the other hand no modifications or amendments to the DUP have been made. After 23 years, the facility of the citizens has suffered damages and the need for reconstruction has arisen, but since the DUP anticipates a construction of a street, the Bitola municipal offices denied a permit for reconstruction. In this manner, the citizen is not only limited in their right to handle their property, but indirectly the local government allows its further damages, endangers living therein and reduces the market value of the facility. Other owners of facilities in the Municipality of Bitola and beyond are also in the same situation.

In addition, several municipalities in Skopje reacted that with the adopted DUPs, their right to ownership is being limited, because in the places of their house there are plans for construction of streets, parking areas, business facilities, there is cutting and destruction of green areas – parks and trees, and because of this the Ombudsman requested interventions to declare such DUPs invalid.

The Ombudsman, due to his lack of authority to affect the decision-making and annulment of urban plans, informed the citizens that the preparation of the urban plans is within the competence of professional legal entities that have licenses to conduct such business, issued by a state

authority, which have been obliged to comply with the principles of planning and arranging space in relation with the providing of equal spatial development, sustainable development, protection and improvement of the nature and the environment, as well as to ensure the compliance with European planning norms and standards. This leads to the conclusion that spatial planning, in accordance with the Law, is within the competence of professionals in this areas and the local governments should not have an influence, i.e. they should not offer solutions for spatial arrangement and during the preparation of the urban plans.

On the other hand, the citizens do not always react in time, so their submitted complaints do not yield results. An example is the complaint from the residents of village Kolesino – Municipality Novo Selo, who requested an intervention of the Ombudsman with the purpose of taking actions to change the adopted detailed urban plan, where in a place called Darevica, there is a plan for construction of a business facility. In a petition submitted to the Municipality, the residents pointed out that this place had always been used for rest, as a place of gathering of children from all of Mala Podgorica, the place provided easy access to the hospital and to the agricultural areas. After taking actions, the Ombudsman concluded that the procedure for adoption of modifications and amendments to the detailed urban plan was conducted in accordance with the Law and that it received consent from the Ministry of Transport and Communications. The Ombudsman established that the residents of village Kolesino did not react in time and did not submit a complaint upon the proposed amendments to the DUP within the period of open survey (debate).

This confirms the findings of the Ombudsman that the citizens usually react after the adoption of the detailed urban plan, and that they do not use the possibility to timely submit their objections and suggestions to the expert committee, formed by the mayors during the public debate, and most frequently due to them not knowing the procedure. In contrast, the lack of knowledge of the procedures, inactive participation in public debates and failing to give suggestions and remarks upon the proposed modifications and amendments to the detailed urban plans does not diminish the responsibility of the citizens, nor does it constitute basis for justified reaction to the local authorities.

Due to the above, this year again, the Ombudsman recommends taking proactive and more efficient measures by the local self-government units for continuously informing the citizens with the rights that they have during the adoption of the DUP, for informing them about the responsibilities that they have, as well as about the consequences they could face due to their lack of participation or untimely participation in these procedures.

The Ombudsman requests from the local authorities to form a participatory body within the municipalities that would have authorisations to convey the positions, opinions and needs of citizens, to consistently and fully perform its competences in accordance with the Law, i.e. to play a proactive role in the procedures for adoption of the detailed urban plans, and it would not be a declaratory body that would seemingly ensure the involvement of citizens in the adoptions of such plans, but practically represent and stand for their interests.

In the area of construction, although in smaller number than in the previous years, the citizens mostly reacted to the postponement of the decision-making procedure upon their requests for legalization of illegally constructed facilities by the local governments. Furthermore, complaints referred to effective decisions for removal of facilities by the municipal administrations, to failure to act by the authorised civil engineering inspectors upon requests for performance of inspection supervision, delays in procedures for issuing construction permits, etc.

The efficiency in acting upon requests for legalization of illegally constructed facilities primarily depends on the local government, specifically on the mayors who adopt acts to form committees with the role to act upon these cases and manage the entire process. For the submitted requests for legalization, administrative acts need to be adopted by the municipality committees within a period of six years, and within this past period of two years, the percentage of solved cases is far from satisfactory.

Unlike the local authorities, which stated that the main reason for the slow implementation of the process was the incomplete documentation submitted by the citizens, particularly the failure to submit a geodetic report, or unresolved property-legal relations, the citizens in

the complaints that they had submitted, pointed to the fact that even with complete submitted documentation over two years no decisions were made upon their requests, and the explanation that they have been getting from the municipal administration is that they have a high number of cases to process.

The Ombudsman also took action upon cases where the citizens requested implementation of already adopted decisions for removal of illegally constructed facilities that interfere with their normal life. The Ombudsman pointed out that all these procedures have been suspended until the completion of the legalization process, while ensuring the citizens that all illegally constructed facilities that would not be compatible with the urban plans would be removed by the local authorities. However, the Ombudsman also acted and requested the municipal administration to remove those constructions that have not been covered with the legalization process. With this goal, the Municipality of Kriva Palanka accepted the suggestion of the Ombudsman to take specific measures for removing a construction for which there was an enforceable decision, i.e. the part of the suggestion of the Ombudsman to file a criminal report to the competent public prosecutor office against the investor building without a construction permit. Incidentally, this Municipality just as many other municipalities, as the reason for the incapacity for administrative execution of the decision to remove the construction, state the unsuccessful public tenders for selection of legal entities that would perform the removal, lack of financial assets, insufficient number of officials, and such.

The Ombudsman believes that the above stated may not constitute reason for failures to act by a certain unit of local self-government, in other words the unsuccessful public tenders, the lack of financial assets and such may contribute to the public distrust with the citizens, especially due to the selectiveness in the activities and indirectly encourage building without construction permits.

Moreover, the Ombudsman has acted upon complaints with requests for postponement of execution of administrative acts for the removal of auxiliary illegally constructed facilities until the effective completion of the legalization procedure, which have been initiated by citizens, and for whose removal the local government bodies had provided financial funds for administrative execution.

Complaints have been noted for obstructing the exercising of the right to legalize illegally constructed facilities. In this context, the Ombudsman took actions upon complaints submitted by a large group of citizens from Ohrid Municipality where, with a Decision of the Municipality Council, and pursuant to the provisions of the Law on Handling illegally constructed facilities and the Rulebook on standards for fitting illegally constructed facilities into urban planning documentation, the Council determined the need for modifications to the urban planning documentation, for the purpose of harmonization of the purposes of the land where the illegally constructed facilities have been built, and which according to the General Urban Plan are intended for business. In the course of actions taken upon these complaints, the Ombudsman also advised the Committee for legalization to take into consideration the acts when making decisions upon the legalization of such facilities. Following multiple written communications and interventions, the Municipality briefly replied to inform the Ombudsman that the Municipality had acted upon the requests for determining the legal status of the illegally constructed facilities and that administrative acts had been adopted, without giving information whether they had recognized the right to legalization or not. After learning that the Committee had rejected the requests of the citizens, the Ombudsman advised them to file a complaint before the second-instance body, which accepted their complaints and returned the cases for reconsideration before the Legalization Committee of Ohrid Municipality.

Taking into consideration the situation with legalization of illegally constructed facilities and the administrative execution of the decisions for removal of facilities that have not been included in the legalization, the Ombudsman recommends strengthening the personnel and technical committees that act upon requests submitted by citizens, increasing the number of committees that conduct on-site inspections, intensifying the trainings of officials, with the goal of efficient processing of the cases. Furthermore, the Ombudsman recommends taking more specific and more efficient measures and actions for the purpose of introducing the citizens with the obliga-

tions to exercise the right to legalization of illegally constructed facilities, particularly regarding the documentation that they need to submit for handling their requests, as well as regarding the consequences of failure to comply therewith.

In relation with the administrative execution of effective decisions on removal of constructions, the Ombudsman advised the local authorities to execute the acts that they had adopted, i.e. to ensure the right of citizens to manage their properties and to continuously enforce the Law, without finding ungrounded and unjustified reasons for selective actions.

Otherwise, this report year witnessed a high number of complaints for untimely actions, i.e. untimely notifications regarding requests for inspection supervision conducted by authorized civil engineering inspectors. The Ombudsman emphasized the legal obligation that the inspectorate has in accordance with the Law on general administrative procedure, i.e. to reply in writing and inform the submitter about the outcome of the performed inspection. The citizens often reacted that the inspectorate claimed to be incompetent to take measures and actions for already built constructions that obstruct management of property. The Ombudsman advised the citizens to initiate a court procedure on the basis of obstruction of management, but these procedures were usually rejected by this council, i.e. they did not want to subject themselves to long-lasting and expensive court procedures.

For this purpose, the Ombudsman emphasized the importance of the preventive role to be played by the authorized civil engineering inspectors, i.e. the need for them to be more present on locations, which could stop the construction in time, if the construction is without the required permit, thus more easily, faster and more effectively react to remove constructions by the local authorities. At the same time, this would contribute to the citizens enjoying, without obstruction, their rights both in relation with their property and in relation with the urban environment.

The Ombudsman commends the introduction of the electronic system "e-construction permit" dated 1st June 2013, and the Ombudsman believes that—in this manner—greater functionality and transparency will be provided in the activities of the local governments upon requests of citizens, but will also ensure the uniformity in the actions taken by the competent authorities, compliance with the deadlines for actions taken upon requests for issuing construction permits, as determined by Law. The Ombudsman also took actions regarding the complaints where the citizens had reacted about the failures to comply with the legally defined deadlines in the issuance of the permits, hence succeeding in accelerating the said procedures and protect the previously violated rights of citizens.

The Ombudsman holds the opinion that the introduction of electronic permits is going to prevent the violations of rights of citizens, and that in the future the procedures would be significantly shorter, and this transparent procedure would reduce the possibilities for corrupt behaviour by any person.

#### Education

Raising the education level of the population, particularly the children and youth, is one of the strategic commitments of the state. The targets in education cover improvements in the quality of the educational process, raising to higher standards in education, improvements to the access to education and increasing the levels of academic achievements.

The decentralization of the education process enables the local government to manage the financial assets intended for education, higher participation of the local community in the decision-making process, as well as more active and transparent management of the schools, including a higher number of subjects in the decision-making process. In addition, this enables checking the quality of the curriculum in the schools and efficient control of the working activities therein.

The monitoring of general conditions points to fact that the main problem in the area of de-

centralization of education is the finances and the inability of the local governments to smoothly apply and develop the education processes.

Namely, in the conditions of decentralization of education, the state partially finances the municipalities, based on the allocation of the funds intended for education from the central budget, in the form of block subsidies, which are not sufficient to carry out the competences in education.

The Ombudsman has pointed to this problem in every Annual Report, and has requested that both the central and local governments take measures, i.e. to adopt acts, decrees, methodologies with the purpose of overcoming the problem of the lack of financial funds.

The communication between the central and local government should be directed towards finding mutual solutions for more successful management of the competences by the municipalities, due to the fact that many municipalities lack the funds to pay for transport of pupils, heating of schools, and they have debt problems. The funds received from block subsidies are usually sufficient for the salaries and contributions of the teaching staff and for some of the utility expenses. According to the mayors of a large number of municipalities, these funds cover only a small part of the expenses for schools and that is why they are requesting changes in the manner of distribution of education funds. While the central government claims that the funds for the block subsidies are regularly transferred to the accounts of the municipalities, and that the amounts thereof are defined depending on the number of schools, the square meters area and the number of pupils or students, and that these funds are sufficient for smooth performance of the competences in the area of education. The central government points to the fact that the local self-government should identify ways to organize and distribute the funds according to priorities.

The Ombudsman believes that such contrasting positions are not in the best interest of the children, i.e. that the pupils are the only ones suffering. That is why it is necessary to find an acceptable solution for the manner of determining the methodology for the needed funds for block subsidies, which would be adequate for normal functioning of the schools and unobstructed carrying out of the education process for the pupils. In addition, the Ombudsman indicates that the local governments should exert more efforts and knowledge to find own funds and other sources of finance, which would develop the education in each segment.

With the decentralization of the competences in education, the municipalities also became the owners of the school facilities, which is why they are expected to maintain their conditions. In order to provide normal conditions for performing the classes, it is necessary for the local government to actually begin to carry out this competence, i.e. to provide the financial funds for continuous maintenance of school facilities and sport halls, as well as to begin with the construction of new schools, particularly in the rural municipalities, which would result in the education process taking place under regular and appropriate conditions.

According to the Convention on the Rights of Children and the Constitution of the Republic of Macedonia, the state bears the obligations to provide mandatory and free-of-charge education for every child, and with the Law on Secondary Education, this right is also guaranteed for secondary education. The practice shows that, in addition to textbooks and work notebook, the pupils also use other auxiliary materials, i.e. notebooks (different types and sizes), then accessories for writing, drawing, colouring, and they are also obliged to wear work uniforms in almost all schools, which costs are borne by the parents. The parents are also burdened by costs for broken windows, damaged furniture, computers, damaged textbooks, tests, and in isolated cases for maintenance of the schools, purchase of diplomas... Consequently, the mounting poverty and difficult materials conditions of the citizens, such expenses for some families present too much of a burden and some of the children are prevented from attending primary education, especially Roma children.

These were the grounds for reactions from parents from Municipality Vrapciste whose children study at Primary School "Naum Fraseri", in the village of Negotino and in the regional school in village of Senokos, because the class heads had been charging the pupils 100.00 MKD per textbook, for the textbooks used during the school year, for damages to the textbooks, and they also pointed to the fact that they were charged between 10 and 20.00 MKD per test and 100.00 MKD per diploma. The director of the primary school denied such allegations as untrue,

explaining that the school had not yet formed a Committee for evaluation of damaged textbooks, but the director failed to give information whether the allegations for paying for tests and diplomas were true. The State education inspectorate which conducted an inspection at the request of the Ombudsman, confirmed that the school had not carried out a procedure for charging for damaged textbooks, which did not mean that such procedure would not be carried out. This is due to the fact that the Law stipulates that the pupil should pay for a damaged textbook 70% of the catalogue value of the textbook, and the Ministry of Education and Science posted on its website the pricelist for damaged textbooks.

The Ombudsman believes that it is unrealistic to expect the pupils to return the textbooks after the completion of the school year undamaged (naturally not including intentional damages), because in the course of the year, the textbooks are used in school, at home, to complete school duties, and the parents have indicated the fact that the textbook are of poor quality because the pages are easily torn. Due to this, the Ombudsman recommends that the units of local self-government should provide funds in their budgets and take over the obligation to procure new textbooks to replace the ones that had been damaged, as the only legitimate way of complying with the provisions of the Constitution of the Republic of Macedonia that guarantees mandatory primary education which is free of charge. Simultaneously, funds should be provided for the additional expenses of the education process, and the participation of the parents therein to be reduced to a minimum, with the goal of fully carrying out the free character of education.

Regarding the right to free transport, the Ombudsman determined that in practice this right is exercised with difficulties, due to the inability of the local governments to cover the expenses to the transporters that have been chosen on public tenders, which is why many local governments have been faced with court procedures and blocked accounts. In some cases, the pupils did not attend classes because the parents were dissatisfied with the manner and quality of the services provided by the municipality, as is the example of the children from village Slivnik who study at Primary School "Vasil Glavinov" and the SSOU "Kole Nedelkovski" in Veles Municipality.

In this specific case, the parents did not send their children to school for 3 weeks because they were dissatisfied with the transport conducted by the company selected by the municipality and they requested that the transport be performed by another company, i.e. to engage another person as the driver. Acting upon the complaint of a group of parents, the investigation showed that the company for transporting the pupils was chosen on a public tender of the municipality and that the company possessed a license for performing transport of pupils. The Ombudsman does not have the competence to affect the decision of the local government for the selection of the most favourable bidder for performing transport of pupils, but indicated that when the local government is making the choice it should also take into consideration the right to act in best interest of the children, in such manner that when choosing such company the local government should view all aspects when selecting the transporters and the financial bid in the given bids should not be the deciding factor.

This year again, there was no visible progress regarding the exercising of the right to education by children with special needs by the local governments. Still not enough attention is paid to the obligation to provide teaching staff for high-quality and professional education, equally for all children, and appropriate pedagogic measures are not being found to include the children into the school environment, without making them feel different from the others.

In the past year, the Ombudsman managed, in cooperation with a non-governmental organization from Bitola Municipality, to initiate a procedure for opening a secondary school for children with special needs, and which right to secondary education would be able to be used by children from the adjacent regions. In the course of 2013, the procedure was not carried out, despite the recommendations given to the Ministry of Education and Science that Bitola Municipality possesses the spatial and personnel capacities to meet the requests of the parents for opening the school. However, the Ombudsman pointed out the positive example because the local government took actions for actually implementing the right to secondary education of children with special needs in the region. The Ombudsman is expecting the initiated procedure to be carried out in the following year.

In this context, the number of primary and secondary school for children with special needs is insufficient, and in certain areas where the wider surroundings do not have this type of schools, the right to education of the children is not realistically feasible. Moreover, the children who do attend schools are facing problems in relation with the expenses and payment of funds for transport, because they receive compensation for the transport according to the prices of public transport, and the payment are late for up to several months. There are cases of parents taking the children with their transport that costs much more.

As a confirmation of the above is the complaint from a parent with two children with special needs who, due to the fact that in the region of Debar Municipality there are no such schools, the parents is forced to live in Bitola in a rented apartment. In this case, which is not unique, the family is forced to abandon its home, live in another municipality, which completely changes their lives and forces them to incur additional expenses. The request of the parent to receive payment of actual expenses for transportation from Debar to Bitola, which would in some manner compensate some of the expenses incurred in Bitola is unfeasible and legally unsustainable.

This year, the Ombudsman again emphasized the need to increase the number of schools for children with special needs in regular education and timely payment of actually incurred expenses for transport to the schools. For these needs, the local government should allocate funds within their budgets to employ professional teams trained to work with children with special needs, as well to additionally train and professionally educate the current teaching staff in schools.

In order to ensure that every child receives the necessary attention and to create opportunities for individual work, as well as to learn the curriculum, the Ombudsman holds the opinion that the number of students should be reduced in classes that include children with special needs. Additionally, the local government, through the preparation and implementation of special programs or projects, should contribute to the education of parents of these children, especially about the manner how to help children to learn the curriculum, as well as contribute to the fulfilments of the need for regular and good cooperation between the parents and the teachers, which cooperation is in the best interest of these children. The Ombudsman stated unequal application of regionalization during the enrolment of the children in the education system by the municipalities, thus performing segregation of Roma children in the schools. Namely, by using the right to enrol into schools outside of their region of residence, and because of the vacant positions for enrolment, the parents have been enrolling their children in other schools, because the school in the region where they belong has Roma children enrolled. This contributes to the creation of ethnically clean Roma classes in certain schools. So for example, in Elementary School "Gjorgji Sugarev" where traditionally, due to regional composition, children from both the Roma and Macedonian communities study together, in the school year 2013/2014 only 15 Macedonians have enrolled. Therefore, in this school, this school year there were 3 ethnically clean classes of Roma children and only 1 class where children of Macedonian, Turkish and Vlach communities are studying together.

The Ombudsman pointed out that measures need to be taken to overcome such occurrences by the local government, and consequently to prevent the Roma children from feeling discriminated, unequal and different from other from the earliest age.

An example of how should the local government act in order to put an end to stereotypes and prevent the continuous discrimination of Roma children in Vinica Municipality where for a number of years, with the support of the Roma Education Fund (REF), activities have been taken to additionally educate adult Roma people, and at the same time, the Municipality has been engaged in encouraging higher involvement in the education system of Roma children living on the territory of the Municipality.

The Ombudsman is of the opinion that the concept of integrated education should be respected in every local self-government, because it constitutes a good basis for increasing the inter-ethnic awareness among the children and youth and tearing down the stereotype-based barriers between them.

The Ombudsman has put emphasis on the fact that integration, through joint activities of the pupils who attend classes in different languages is of great benefit both for the class and

out-of-class activities within the very schools and between different schools from the same municipality or from the whole country and it should be accepted as positive practice which, among other things, is going to contribute towards changing attitudes of children to each other, and it would also strengthen the tolerance and dialogue among the children themselves.

#### **Labour relations**

The monitoring of the situation in this area proved incomplete application of the legal legislation, in particular the application of the principle of non-discrimination and equal access of all citizens to every job position under equal conditions.

The Ombudsman believes that the local governments, with higher dedication and responsibility, should be focused towards professional additional training of the municipal administration in each segment of the operation, especially in its relations with the citizens, with the goal of high-quality and efficient actions regarding their requests upon issues within the competence of the local self-government. The employments in the municipal administration should be carried out within a transparent procedure, based on the criteria of professionalism and competence and the application of the principle of appropriate and fair representation of the members of the communities. In addition, the professional qualifications of the candidates, their working experience, as well as the personal characteristics and skills of the candidate should be taken into consideration.

Improving the situation requires greater efficiency of the state authorities that conduct supervision over the application of the laws and taking of measures towards the responsible persons in the municipalities, in cases of identifying the procedures for employment, improvement of the employees, etc.

On the other hand, in the course of this report year, multiple complaints were filed for violation of rights arising from the labour relation of the employees from municipality administrations or by employees from legal entities and institutions founded by local governments. The violations of rights mostly arise from the failure to carry out the legally stipulated procedures by the mayors. The Ombudsman reacted upon a high number of complaints submitted by directors of primary and secondary schools, which have been dismissed from their functions before the expiry of their respective mandates by the mayors of Municipalities of Gostivar and Tearce. The dismissals were executed prior to the expiries of the mandates, without the proper application of material law and without carrying out the legal procedure stipulated for early termination of mandate.

In its reactions upon these complaints, the Ombudsman concluded that the dismissals were conducted contrary to the stipulated legal procedures and only based on minutes submitted by the school boards with proposals for dismissals, without granting the right to respond to the claims made in the minutes adopted by the directors, without the presence of the state education inspectorate which should be fully integrated in the procedure, and the decisions adopted for the dismissals failed to even stipulate the legal basis for the said decisions.

Taking into consideration such identified violation of the rights of submitters of complaints, the Ombudsman submitted a Recommendation to the State Committee for deciding in an administrative procedure and second-instance labour relation procedure that was reviewing the said cases in the appeal procedure. With the recommendation, which first highlighted all the identified legal omissions in the dismissal procedures, the Ombudsman recommended to the Committee to adopt a decision accepting the complaints and annulling the adopted decisions. The State Committee, in all the cases acted in line with the recommendations of the Ombudsman, i.e. it accepted the complaints of the dismissed directors, annulled the illegally made decisions and returned the cases for re-evaluation.

In its activities taken upon other complaints concerning the same problem of dismissals from functions before the expiry of the mandates, the Ombudsman found that, after the annulments of the decisions for dismissals from functions of directors by the State Committee, the

schools in repeated procedures complied with the Law and the stipulated procedure, and the mayors again adopted Decisions for dismissals. In such cases, the complaints of the submitters of complaints were denied as ungrounded by the State Committee.

The Ombudsman also took actions upon the complaints filed by the employees in the municipal administration in Municipality of Karpos, where it was stated that, following the completion of the local elections, the mayor had appointed the employees to job positions in local communities "Zlokukani" and "Bardovci" as well as the urban community "Vlae 2", where they lack elementary conditions to perform their working tasks, i.e. they have no toilets, running water, no working assets – computer, and they had not been allowed to take their work computers which they had been using for work for years. Moreover, disciplinary procedures were being initiated against some employees based on them being late for work or being late returning from a break, while some employees were reassigned to different job positions.

The submitters of the complaints also claimed that a disciplinary procedure was initiated against the president of the trade union, and that he should formally be a member of the Committee for running disciplinary procedures, in order to protect the rights of the employees. The employees from this Municipality indicated that all employees who, following the completion of the local elections, were declared as "unfit", actually had given great contribution for the development and successful functioning of the Municipality, while they had been evaluated with lowest grades at the time.

In relation with these claims, the Ombudsman asked the Municipality for detailed written information about all the statements made in the complaint and to enclose materials as evidence thereof. The secretary of Karpos Municipality, after a period of nearly 3 months from the date of submitted request, provided a short answer where the Ombudsman is informed that the Municipality gave lower evaluations for some employees, for some employees decisions were made for them to be reassigned to different job positions, that decisions were made for disciplinary measures for some employees, and that against one employee the procedure was initiated for termination of the labour relations upon the request of the employee. All the procedures in the past period of 3 months ended with legal effect, and the right to complaint was used only by those employees who had been evaluated with lower grades.

The answer provided failed to give any information about the legal basis and the reasons for the performed reassignments to local and urban communities, whether the working premises comply with the basic hygienic and sanitary conditions, whether computers have been provided as basic work assets for a state employee, whether the new decisions have the same or lower position and similar issues for which the Ombudsman requested information, with the goal of properly determining the actual status upon the complaint.

In the Municipality of Kriva Palanka, the mayor issued a measure of termination of employment of a state administration employee in the municipal administration, without complying and implementing the provisions of the Law on State Employees. Specifically, prior to the adoption of the decision on termination of the labour relation, the mayor had failed to propose a program for assignment, failed to send the program for adoption to the Government of the Republic of Macedonia, and failed to offer the state employee a job position on the same or lower level. The Ombudsman, within its actions, requested the Committee for deciding upon second-instance appeals and complaints within the Administration Agency, to take into consideration all the material evidence and facts and to make a decision with which the decision for termination of the labour relation would be annulled. The Committee complied with the suggestion of the Ombudsman, i.e. it annulled the decision and returned the case before the mayor for re-evaluation.

It is specific for this case that the decision for termination of the labour relation was adopted for the second time, after an already implemented repeated procedure in which the mayor failed to comply, i.e. he failed to act upon the recommendations of the Committee, for the implementation of the legally stipulated procedure. The mayor, on two occasions, in two consecutively carried out procedures, the mayor knowingly failed to comply with the law towards the submitter who was an employee in the Municipality, which is impermissible for a holder of public office.

On the other hand, the mayor of Municipality Studenicani gave a verbal order to assign an employee from the municipal administration to a primary school. In this procedure, the Ombuds-

man pointed out that, pursuant to the Law, any assignment from the Municipality to a legal entity (school) that is founded by the Municipality, should be carried out in accordance with the Law and within the prescribed procedure, with the adoption of an administrative act or by making amendments to the employment contract, or with the conclusion of a new and modified employment contract, but in no case with a verbal order.

The mayor not only failed to act upon the given recommendation of the Ombudsman, but also contrary to the provisions of the Law on the Ombudsman, failed to submit any information, thus impeding the work of the Ombudsman.

Furthermore, the mayor performed the reassignment of another employee to a job position which, in accordance with the acts of the Municipality, does not match the person's professional education. Within the procedure for the complaint to the assignment decision adopted in such manner, the State Committee acted upon the suggestions of the Ombudsman and, after fully reviewing the case and determining the actual status, adopted a decision to accept the appeal filed by the employee.

Reacting upon the complaint of the state administration employee in Municipality Chucher Sandevo, filed due to dissatisfactory evaluation during the evaluation procedure, the Ombudsman indicated to the Committee for deciding upon appeals and complaints within the Administration Agency, to take into consideration the material evidence and facts in the case, for the purpose of adopting a proper and legal decision. The Committee in this case again complied with the suggestion of the Ombudsman, i.e. it accepted the appeal of the state administration employee.

The examples of failures to implement and comply with the laws in the performance of operations within the competence of the mayors, were confirmed by the second-instance bodies that annulled the acts adopted by them, and they serve to show that it is highly impermissible and unacceptable for the mayors, as holders of public office, to act outside of the legal regulations.

Symptomatic are the claims of the submitters of complaints that these dismissals from the functions of directors, as well as the reassignments, disciplinary procedures, lower evaluations of the employees in municipal administrations, following the completion of local elections in our country, are of political, and not professional nature. After the finality of the adopted administrative acts by the mayors, any further actions by the Ombudsman would have had no legal basis, or purpose, because of which the citizens were advised to seek protection of their rights in a court procedure. This is because of the fact that, pursuant to the Constitution of the Republic of Macedonia and the Law on the Ombudsman, the Ombudsman does not have the authority to annul an effective and final administrative act, nor does the Ombudsman have the competence to make meritorious decisions upon certain rights of citizens, which right is bestowed solely upon the courts.

However, the conclusion remains that the mayors are obliged, while performing the operations within their competence, to comply with the laws, and the state bodies which, pursuant to the Law on Local Self-Government, conduct supervision over the operation of municipal bodies, should prevent and sanction the illegal performance of the mayoral functional related with the rights arising from the labour relation. At the same time, the Ombudsman would like to draw attention to the principle of the Code of Ethics of Local Officials from 2008 which sets standards of behaviour and according to which principles the mayor (as one of the local officials) is obliged to provide detailed reasons for the adopted decisions and procedures, and should particularly prove that his or her decisions are in accordance with the laws and for the benefit of public interest, in which way the mayor would comply with the principle of "accountability before the citizens".

This year, a discrimination procedure was initiated before the Ombudsman based on labour relations and unequal treatment of the submitter of the complaint compared to other employees.

In the kindergarten "Estreja Ovadija Mara" in Bitola Municipality, an employee was subjected by the director to unequal treatment in relation with the other employees, due to the reason that the employee was a member of the Albanian community. The director denied any discrimination and unequal treatment of this employee, indicating that despite the omissions and the behaviour presented in the job positions by the employee, the director did not initiate a procedure for determining their culpability, or re-examined the manner of performing the working tasks.

None of the provisions of the domestic legislation or of international legal acts, the discrimination is not connected with the fact whether an employee is held responsible or not for the manner of performing their working tasks. Pursuant to the provisions that regulate the occurrences of discrimination both in domestic and international legislations, it is considered as discrimination is a certain person is being treated in an unfavourable manner in comparison with another person in identical situation with discriminatory basis – in the specific case based on ethnical affiliation, to which the submitter referred.

In the course of the procedure, the Ombudsman failed to identify the existence of discrimination or mobbing due to lack of evidence, which is why the Ombudsman advised the submitter of the complaint about the possibility to initiate a court procedure for establishing a discriminatory relationship, or workplace mobbing. The Ombudsman also reacted to another complaint submitted by multiple persons, against the same public institution, due to discrimination on political basis, in the employment procedure. The submitters claimed that the director of the kindergarten "Estreja Ovadija Mara" – Bitola employed multiple persons in the course of local elections.

The Ombudsman found that the advertisement for employment in the kindergarten was posted before the elections were announced, which is when the kindergarten received the consent for provided funds from the Ministry of Finance. The State Committee for prevention of corruption, for the employment procedures that were initiated and ongoing in the election period, took the positions that all employments for which consents had been previously obtained from the Ministry of Finance, would be able to be realized and continued during the election process. The choice of the candidates made by the director of the institution was made in early March, before the day of holding the local elections. Because the employment procedure was already completed in the institution with legal effect, the Ombudsman advised the submitters of the complaint that they had the possibility to file a lawsuit before the regular court for re-examining the legality of the position of the State Committee for execution of employment procedures in the course of the election process, as well as based on discrimination on political basis.

The Ombudsman also reacted to the complaint for employment in the primary school "Nikola Karev" in Radovis Municipality. The submitter specified that the choice of teacher by the director was made within the procedure contrary to the Law on Primary Education. The Ombudsman requested from the State education inspectorate to conduct inspection supervision where a series of irregularities were established in the employment procedure itself, as well as the procedure for testing the knowledge of Turkish language of the candidates. Due to the above, the inspectorate obligated the director to annul the choice of teacher in classes where the curriculum is in Turkish language. It is specific for this procedure that despite the undoubtedly stated violations of the rights of the submitter of the complaint, and despite the fact that actions were initiated to annul the selection of the teacher, the submitter of the complaint suddenly decided to withdraw the complaint and asked the Ombudsman to cease actions thereupon.

The Ombudsman, taking into consideration these situations, encourages the citizens and advises them that their rights are guaranteed with the Constitution of the Republic of Macedonia, laws and international acts and that the decision is in their hands whether they will request full exercising of their rights by public authorities, and also encourages them to immediately report any manipulation or blackmail that hinders or prevents them from enjoying their rights or puts them in unfavourable, or more specifically unequal position with another citizen.

From the field of labour relations, complaints were submitted before the Ombudsman by teachers and employees working in public enterprises, based on the right to actual compensation for transportation to and from work. In relation with these complaints, the Ombudsman informed the submitters that with the introduction of payment of gross salary, the transportation allowance is included with a certain amount, but not always in the actual amount that the employees pay for transport to the workplace, when this workplace is at a greater distance from their place of residence. From the aspect of the right to payment of actual travel expenses of the teachers, the Ombudsman informed that although such travel expenses are not stipulated with the collective bargaining agreements for primary and secondary education, they have been included in the General Collective Agreement for the public sector. While pointing to the possibility for these employees to claim the payments of actual expenses, the Ombudsman indicated that the court

practice varies, i.e. some judges allow for this right, while some do not, which additionally makes the decision harder for the employee whether to seek payment of the difference in actual travel expenses through the courts.

Taking into consideration the determined status in relation with exercising the rights arising from labour relations of the employees in municipal administrations, as well as the employees in public enterprises and institutes founded by local governments, the Ombudsman once again emphasizes and stresses the legal obligation of local officials to consistently comply with the activities and procedures in the area of labour relations stipulated by law, to consistently respect and exercise the rights of the members of the communities as priority for employment granted by the Constitution and the laws, naturally in compliance with the criteria of competence and expertise, as well as not to discriminate on any basis against any person.

# **Consumer rights**

The competences of the Units of local self-government in the part of municipal actions are diverse, and additionally, these competences have a great effect on the everyday life of the citizens and the municipality as a whole. The general conclusion is that the municipalities are showing satisfactory results in the organization and delivery of municipal services, but that they also need more financial funds in order to be able to maintain and develop the municipal sector according to the standards. The financial support that the local governments get from the central government for infrastructural investments in the municipal activities is far from sufficient.

Due to the importance of municipal services, on one hand, and the limited capacities of municipal administrations on the other hand, almost all municipalities in the Republic of Macedonia have formed public utility enterprises that have been transferred the right to deliver one ore more services in the utility area.

The review of the conditions in this domain has shown that the public utility enterprises are not in condition to perform their competences without obstructions, due to obsolete mechanization, old fleets, insufficient degree of collection of utility fees, and financial losses. Due to the above, it is not rare for the local authorities to subsidize the operations of the specific utility enterprises. Since the capital investments have been reduced to a minimum, this data indicates that the subsidizing is most commonly intended for providing current operational expenses. Therefore, the local governments are often forced to adopt unpopular measures - increasing the prices of utility services, which creates a revolt among the citizens because they do not get high-quality utility services for the funds that they are obliged to pay.

Taking into consideration that a growing number of citizens are unable to pay their obligations for using the utility services, some units of local self-government, in order to help the citizens from socially vulnerable groups, on one side, and to improve the financial situation of the utility enterprises on the other side, as one of the manner they chose to subsidize the payment of utility fees. So we have an example from Municipality Negotino that subsidizes the consumption of utility services in the part related to the delivery of drinking water, sewage, drainage of waste waters and picking up and transporting municipal waste, but the decision applies to households that use the right to social monetary aid. The Municipality of Gevgelija, for subsidies for utility expenses of 150 socially vulnerable persons, provides the amount of 500.00 denars. Ohrid Municipality went a step further, and it subsidizes utility fees in the amount of 600.00 denars, and not only for users of social security aid, but also for workers from bankrupt companies and disabled persons with minimum 70% disability. The Council of Kumanovo Municipality made the decision to subsidize the utility services for socially indigent persons in the amount of 1,200.00 denars. The Ombudsman commends these measures, but also would like to highlight the need for the units of local self-government to compensate the lack of funds required for infrastructural projects and improving the quality of public services by finding other sources, using international funds, and naturally the different models of public-private partnership.

In the Statue of the Municipalities of almost every unit of local self-government, as a reg-

ular body within the composition of the Council of the Municipality, the Municipality has planned and formed a Council for protection of consumers. This body has general jurisdiction to review issues and establish proposals that apply to the quality of services of the public offices of the Municipality, and particularly to monitor the status of the providing of utility services by public enterprises, to ensure the resolution of problems that the citizens have when using the services of those enterprises and the institutions that provide public services, to ensure the improvement of the attitude of the employees towards the service users. However, this body, as an integral part of the Council of the Municipality is more of formal nature, instead of actually contributing towards the development of the utility related activities.

Realistically speaking, with the lack of financial funds of the local governments to improve the standards of performance of this activity, there is little space for this Council to act, and it is usually reduced to monitoring the situation whether and how the utility enterprises, in line with their possibilities (with equipment and financial funds), provide the utility services.

The Ombudsman recommends higher engagement and efficiency of this body for operations that it can realistically perform, as well as the organization of public debates and other forms of citizens' participation where the citizens would be transparently informed of the actual status in the sphere of utility services, where there would be discussions about the manner and quality of performing utility services, where the citizens would be informed of their rights and obligations that they have in this area, and naturally discussions would be held about improving the protection of the citizens in their capacities of consumers. There is high number of complaints where the citizens indicated that the public utility enterprises, established by the Municipalities, submitted warnings requesting the collection of the debt for supplying water and using the utility services, under the threat of forced collection of the debt or disconnection of public utility services. Acting upon the complaints from these citizens, the Ombudsman found that there have been requests for collection of obsolete debt from several years in the past, without the public enterprises submitting the requested information whether such debts have been sued in court or not. It is characteristic for these cases that the public enterprises would file the lawsuit in advance, and then they would submit a warning before a lawsuit, which actions are contrary to the Law, and additionally, they indebt the citizens with court fees without basis.

Specifically, the public utility company Mavrovi Anovi, justified their requests for collection of due but not sued, thus obsolete, claims, with the failure to write off the amounts from its accounting records. The decision for this was made by the Management Board of the enterprise which adopted the decision in general – for all customers for several years at once. In the specific case, the issue was already paid debt which was still requested to be paid by the citizen, only because the debt could not be individually deleted from the accounting records.

The public enterprise "Vodovod" Kumanovo, due to unpaid debt for 2007, 2008 and 2009 of the previous user of the facility for which it had concluded an agreement on the manner of settlement, refused to admit the new customer which acquired this role with a contract for purchase of the facility. The public enterprise asked the new customer to pay the debt, as a precondition for their admission as a new customer. In this manner, the enterprise attempted to collect utility fees from a person who had not incurred the fees at all, and who had not used the utility service.

The Ombudsman submitted instructions to all public utility enterprises pointing out that the collection of obsolete debts and the submission of warnings before lawsuits for such debts creates a situation where one part of the citizens, due to fear of forced collection, are prepared to immediately pay the debt or accept their offer and conclude a contract for collection of the debt in instalments, regardless of the fact whether the debt is obsolete or not, and regardless of the fact whether they are legally obliged to settle the claim or not.

Most numerous complaints were related with the imposing of the obligation for charging a public utility fee for public lighting by the Municipalities. Specifically, the citizens were required to pay this public utility fee without, however, having street lights constructed in these areas of the Municipalities. Pursuant to the Law on Public Utility Activities, the obligation to pay the public lighting fee is related with the placement of an electric meter in the facility and its connection to the power distribution network, regardless if the facility is in use or not, but still the basic precondition for charging this fee is the use of the service – to have public lighting implemented

therein. The Law stipulates the release of payments of public utility fees for owners of meters for measurement of electric power consumption in settlements where there is no public lighting. This provision unambiguously confirms the attention of the lawmaker not to request payments of fees for services that the citizen is not using. The local governments, specifically the Municipality Councils have been given the right to adopt a Decision on determining the passive settlements with significant migration, scarce professions and dying crafts and the settlements where there is no public lighting, where by these customers are released from the obligation to pay utility fees for street lighting. But in practice, there are many cases where the Municipality Councils do not make decisions to release the citizens from this obligation, although in certain regions not only there is no street lighting or it is treated as if there is street lighting despite the fact that there is only one light fixture and it covers a region with 1 km diameter or more, but the municipalities in general do not provide the necessary network infrastructure, and the light bulbs are often missing from the already placed, decades old, wooden poles. Such conditions have been found not only in rural environments where they are most common, but also in urban environments.

Acting upon these complaints, the Ombudsman pointed to the mayors that, pursuant to the provisions of the Law on Public Utility Fees, the obligation to pay a public utility fee emerges at the time of using the right, object or service for which the payment of the fee has been prescribed.

The Ombudsman emphasized that the citizens should not be abused if such decision does not include all regions and in this manner ignores the actual situation and the fact whether a certain settlement has public lighting provided or not. At the same time, the Ombudsman, as one of the manner of resolving this realistic problem with street lighting, which is also primarily rooted in the lack of financial funds, accents the positive examples of several Municipalities that have solved this problem through public-private partnership. So, for example, the Municipality Chair put into operation a modern system for public lighting built according to the principle of energy efficiency. The Municipalities of Kochani, Zrnovci and Cheshinovo-Obleshevo, through a public-private partnership are replacing the mercury-based street lights with energy saving light bulbs, and this is expected to lead to up to 80 percent savings, as well as to bring savings to the municipalities. On the other hand, the council member of Municipality of Bitola, at the end of the year discussed to start a procedure for concluding a contract for establishing a public-private partnership for providing services for revitalization, modernization and maintenance of street lights on the territory of Bitola Municipality.

Complaints have been also filed before the Ombudsman where the citizens claim that the public utility enterprises responsible for collection of garbage fail to collect it in regular intervals and do not maintain clean the public areas, while charging the citizens for services that they do not use. So for example, the residents of village Bukovo, Municipality Bitola, reacted to the fact that the public utility enterprise "Komunalec" Bitola, does not regularly collect the garbage from the village, and that it does not clean the illegal landfills. The public utility enterprise specified that the cleaning of illegal landfills is not within the competences of the PE "Komunalec", but that they are obliged to collect waste only from specialized containers for garbage disposal, which is performed regularly, without giving the information what other enterprise bears the duty to maintain the cleanliness of public areas.

The residents of village Lopatica, Municipality Bitola, complained about the unfounded charging of fee for public green areas and maintenance of green areas, due to the fact that the village does not have public green areas. The Ombudsman requested information whether the resident of village Lopatica use the service for maintenance of public green areas and public cleanliness, as well as to list the public green areas and public parks in the village. The public utility enterprise replied and confirmed that there are no such green areas in the village of Lopatica, but that the village is within the Municipality of Bitola where there are public green areas. The public green areas in the city of Bitola are for general and common use by the citizens of the Municipality, where as citizens of the Municipality, they, in accordance with the Decision of the Council of the Municipality, bear the obligation to pay the fee which constitutes revenues for the Municipality.

The citizens also reacted to the delays in the procedures for connections to the water sup-

ply network, and failures to timely clear reported faults in the water meters. Within this domain, we also found such cases in rural environments, where the water supply networks are property of the local communities of the villages, and cases of obstructions of the right to connection in newly constructed facilities, primarily due to the already overloaded network and the weak water pressure.

The Ombudsman submitted the recommendation, in all such cases, for the local governments to find ways and the funds to get included as a co-owner, as the only way of renewing and increasing the capacities of the water supply networks in rural environments, hence ensuring that no citizen would be forced to live without a water supply connection in their home.

#### Social protection

With the goal of increasing the social security and properly identifying the real problems that the citizens directly face in the local community where they live, with the process of decentralization, the units of local self-government were transferred the competence within the area of social protection.

Specifically, following the transfer of competences and in accordance with the adopted laws, the units of local self-government were entrusted with the responsibility to found public institutes for social services, developing non-institutionalized forms of social services and implementing social programs in cooperation with the other segments of the public sector and the non-governmental organizations. Therefore, the decentralization requires the existence of the relevant capacities on local level. The general conclusion for all municipalities is that the decentralization process in the area of social services is not yielding visible results. The reasons for such low tempo of implementation of this jurisdiction can be found in the specificity, the financially expensive and complex competence, as well as the lack of well-trained staff in municipal administrations who would implement and run this decentralized service.

Certain progress can be detected in the establishment and maintenance of kindergartens and homes for care of the elderly. But the local governments are not able in this domain too to independently finance their operation, i.e. they depend on the finances provided by the central government, which is conducted though earmarked funds or block subsidies. The facilities of kindergartens and homes for care of elderly people, that have been transferred to the property of the municipalities, are in very poor condition and no interventions have been made on them for a number of years, due to the reason that they do not have the financial power to handle this problem on their own, i.e. the municipalities still depend from financial support from the central government.

Although the majority of units of local self-government adopted Programs for carrying out social, child and healthcare protection, where the activities are determined according to certain target groups (homeless children, elderly people, persons with special needs, reducing the poverty and social exclusion), there is not always feedback about what percentage of these programs is actually implemented.

During the review of the situation in this area, the Ombudsman found that there was no clear strategic plan for improving the situation of socially endangered persons in the municipalities. The measures that are being taken are reduced to short-term projects without results in the long run, there is absence of proactive cooperation of the municipality with the business sector or specific initiatives for collection of funds for the indigent and vulnerable groups of citizens. There is no continuous activity of the municipalities for engaging work able citizens to conduct works of public interest. The measure is usually reduced to financial funds from the central government, and it is not consistent. The Ombudsman would like to indicate the importance and the need for social prevention which should be carried out by the local governments and which would enable early discovery and early treatment of the citizen exposed to social risk, in which manner it would be possible to overcome or mediate the harmful consequences from exposure to social risk by the citizens. Simultaneously, the Ombudsman puts the accent on the need to take concrete, ef-

fective and efficient measures on local level, with the goal of having the socially excluded citizens re-included into the society.

Furthermore, the citizens are not informed enough about the rights to social protection from the local governments and they only request one-time monetary aid, usually thinking that it depends on the good will of the mayor, not as their legally granted right. Such conclusion has been confirmed by the several complaints submitted in this area – right to one-time monetary aid, where in certain cases the Ombudsman managed to accelerate the procedure for awarding monetary aid or advised the citizens that, despite their undeniable need for financial aid for resolving a certain problem, the citizens still do not meet the conditions stipulated by the local governments, as the possibility to get such aid.

Therefore, it is necessary to be more engaged, to take proactive measures and policies for the purpose of familiarizing the citizens with their rights in the social sphere, and which they can exercise before the local governments. In this context, it is necessary when determining the local budgets, to plan for financial funds that would at least to some degree solve the problems of socially endangered citizens, and it would improve their conditions in the municipalities.

#### **Environment**

The laws and bylaws from all spheres of the environment contain within them the basic principles based on which the environment management procedures are regulated.

The activities planned for protection of the environment have been defined in the National ecological action plans, the Local ecological action plans, as well as in accordance with the international conventions and agreements in this area.

Insufficient training has been noted in the municipal administration, as well as in the other involved entities (particularly in the industrial sector) for implementation of legal regulations. Realistically, the problems in efficient resolution of this transferred competence are becoming increasingly large, due to the absence of functional connectivity between the local and central level. Taking into consideration the new competences and tasks that they need to take over, the units of local self-government have the need for modalities for exchange of experiences.

In practice, the citizens are still living in areas surrounded with illegal landfills, with municipal and construction waste in the settlements and in the streets, they are living next to polluted water canals, polluted rivers, they are living and breathing air polluted by economic facilities constructed in the vicinity of towns and villages. The Ombudsman believes that this is the result of insufficiently developed ecological awareness of the citizens, insufficient education about their rights arising from this area, but also about the standard of citizens and the times that we are living in which is filled with existential problems that reduce the interest for resolving this type of problems. The citizens are paying very little attention to the illegal landfills that spread unbearable stench and which present an ugly image next to a major highway, as is the case at the entry to Bitola, or they get used to waste stored at the town exit in the vicinity of wheat silos and factories that produce food, as is the case in Tetovo. The Kicevo landfill has been located for decades only about ten meters from the nearest house next to it and in the immediate vicinity of the town hospital. No attention is paid to the disposal of waste, the garbage that is carried by the rivers to the towns, pollutes the environment and causes harm to the citizens and their health. To be specific, the citizens are doing it themselves, as is the case with river Pena, and with waters of Vardar that with every flow into Veles carry all the filth of the citizens from Gostivar, Tetovo and Skopje.

Due to this situation, the Ombudsman believes that it is necessary for the local governments to take more active, more efficient measures, in order to improve the public awareness about the need for a healthy environment and mobilizing the citizens that support the implementation of the plans and programs for healthy environment. At the same time, it is necessary to strengthen the inspection services, have them undergo additional professional education, and enhance the accountability for any omission in their work.

The insufficient interest of the citizens for smooth and complete implementation of their right to a healthy environment is confirmed by the number of complaints filed before the Ombudsman regarding this area, which number has been continuously low and does not represent the true reflection of the situation in this area. The majority of complaints refer to the higher levels of noise caused by loud music played from food and beverage service facilities or by activities performed by independent craftsmen or legal entities who usually place their workshops in the vicinity of their homes or in central city areas. In relation with the complaints about loud music, the environment inspectorate acted upon the complaints of the Ombudsman and after conducting inspections, wherever it found the level of noise to be higher than the level prescribed by Law, took appropriate measures and adopted decisions to sanction the owners of the facilities.

In relation with the noises caused by performance of activities by independent craftsmen or legal entities, the authorized environment inspectors also act upon the requests submitted by the Ombudsman, they conduct inspection supervisions and take appropriate activities upon them. During the activities taken upon these complaints, the Ombudsman determined that not always the independent craftsmen or the legal entities comply with the Law, and before beginning with their activities, they do not prepare nor submit for approval to the mayor the Report on protection of the environment. In the course of the inspection, for several complaints the Ombudsman found that the complaints started with performing the activities without an approved Report or they had not begun the procedure for preparation of the Report at all. Due to such conditions, the Ombudsman puts emphasis on the need to conduct more frequent control inspection supervisions, with the goal of preventing violations of the law, as well as to increase the capacities of the departments for protection of the environment, specifically by increasing the number of environment protection inspectors, their continuous training and upgrading of their knowledge, all in the function of continuously monitoring the conditions in this field and enabling the citizens to enjoy their right to a healthy environment.

The complaints that refer to the pollution of the environment media (soil and air), are most often due to improper keeping of livestock and poultry, or their keeping in suburban areas, which exposes their neighbours to constant noise and unbearable stench.

The Ombudsman established that the inspectors from the Municipality, after identifying a violation, adopt administrative acts obligating the perpetrator to certain actions. Very often, the perpetrator fails to act upon their obligations, which leads to the initiation of misdemeanour procedures, but the fact is that while the procedures are ongoing the person polluting the environment continues to break the law, and very frequently only pays the fine, but does not remove the livestock or the poultry. The problem here is that the local governments do not enforce the act they had adopted themselves. The Ombudsman would like to highlight the need for the units of local self-government find efficient measures and manners of resolving this persistent problem.

Regarding the air pollution, this year complaints were filed on the basis of pollution from smoke from food and beverages service facilities and from facilities that distil liquor.

There were no complaints that would refer to the pollution of air by industrial facilities, or to burning garbage in "city" landfills, which naturally does not mean that such pollutions did not happen in 2013.

Taking into consideration the identified conditions regarding the degree of compliance and exercising of rights related to the environment in the Republic of Macedonia, the Ombudsman found that the ecological conscience of the citizens is still on a low level, and that is why the Ombudsman puts an accent on the need for taking urgent measures to educate the citizens about the importance of the environment which directly affects their health, and the very ambience of their everyday living. An increase in preventive activities with direct inclusion of the citizens is recommended, with the goal that it would affect and raise their awareness about the need to have a healthy and clean environment.

#### **Finances**

The decentralization process brought positive innovations in the sphere of finances on local level, among which is the possibility and the obligation for the local taxes and levies to be administered (identified and collected) by the units of local self-government, as the direct beneficiary of the funds. However, the Ombudsman is of the opinion that the amount of taxes is more declarative. This is because, in order to ensure the independence, total fiscal autonomy should be provided, in the manner that the local government would have the right to define and change the tax rates and the tax bases. In principle, this means the right of the local government to independently choose, i.e. for the Councils of the municipalities to determine themselves the percentage of taxes.

The current legal solutions stipulate the independence of the local governments through municipality Council in the selection of the amount of percentage of the tax that is already limited with the "from-to" amount, specified in the Law. Taking into consideration the above, the question that logically imposes itself is whether such manner of providing revenues provides true fiscal decentralization or it only transfers the competences and responsibilities for identifying and collecting these taxes.

Moreover, the revenues of the local governments is provided through already prepared laws and the sole new Law, adopted in the process of decentralization, that amends the revenues of the local governments is the Law on financing the units of local self-government, which provides the local governments with revenues that the central government would transfer to the municipalities within the legally defined percentage of 3% of the personal income tax and the value added tax, which percentage for 2013 equals 4.5%. On the other hand, the Law also defines other manners to provide revenues (block and earmarked subsidies, donations, revenues from lease and sale of real estate, fines, etc.). The situation found on location indicates that although the fiscal decentralization is coming to an end, a high number of municipalities are facing the problem of autonomous collection of revenues, and the percentage of administration of the revenues depends on the tax capacities of the municipalities. Proper handling of the determined and the collection of local taxes and levies, and high level of collection of local taxes and levies are characteristics of units of local self-government that have the relevant capacities for management of the rights and obligations granted with the applicable laws. As an example, the Municipality of Karpos collected 90.68% of the identified taxes for 2012, Centar Municipality - 87.73%, Municipality Aerodrom - 82.57%, Municipality Gevgelija in the beginning of 2013 informed that it managed to collect 81.60% of the total tax debt for 2013, while Prilep Municipality, ending with the third quarter of 2013 has an implementation rate of around 80% of the planned for collection local taxes, levies and contributions. As a contract to these municipalities, 27 municipalities suffered a drop in revenues of 20% because they failed to collect the taxes in time.

The Ombudsman, with the goal of improving the actual situation in the area of fiscal decentralization, recommends to establish procedures and standards for administration of taxes by the local governments, by initiating modifications and amendments to the legal regulations and bylaws, as well as to determine appropriate processes and procedures for taking actions for administration of local taxes and levies. Furthermore, the Ombudsman recommends taking activities to further improve the collection of taxes, i.e. the timely submission of tax decisions to the natural persons and legal entities and continuous monitoring of the level of collection of property taxes according to annual quarters, in order to determine the dynamics of collection of taxes and levies, thus timely reacting and taking appropriate measures to increase the collection. Only through a professional attitude of the administration in the collection of own revenues, and by increasing the efficiency, transparency and accountability for this process, will the trust of the citizens increase for the local governments, which would in turn lead to higher loyalty of the citizens, expressed exactly through their fulfilment of obligations for payment of local taxes and levies.

According to the complaints submitted before the Ombudsman regarding this sphere in 2013, the citizens were again faced with attempts of the administration to collect obsolete tax, with failure to comply with the legally stipulated procedure for determination of taxes, particu-

larly with the manner of application of the Methodology for determining the value of real estate, postponing the appeal procedure, failure to forcibly collect taxes when the debtor is the Government of the Republic of Macedonia or a legal entity founded thereby, as well as problems with the inability to recover erroneously paid taxes.

The Ombudsman found significant progress in relation with the compliance with the legal provisions for obsoleteness of collection of taxes by the local governments, and in that context complaints on these bases have been filed only for the Municipality of Bitola.

Acting upon a complaint from a citizen, the Ombudsman found that the mayor adopted a decision for property taxes for 2013 and a decision for forcible collection of unpaid property taxes from 2000, in which case the transaction account of the citizen was blocked. Both decisions were in a name of a deceased person. The Ombudsman advised the mayor about the need to urgently apply the provision of the Law on Tax Procedure that stipulates a change in the tax decision and that it should be addressed to the heirs of the deceased tax payer, determined after the completion of the inheritance procedure, in accordance with the Law on Inheritance. To be more specific, the Ombudsman emphasized the obligation to apply the provision of the Law that stipulates that the right to collection of taxes and the right to collect costs of forcible collection become obsolete in five years following the expiry of the year in which the collection was to be made.

In this specific case, the municipal administration does not have any evidence that in 2005, the Public Revenue Office took actions against the debtor for collection of the property tax, nor does the municipal administration have any evidence that it previously, prior to the adoption of the reminder for payment of taxes in the name of the taxpayer in 2012, had taken any actions that would suspend the obsoleteness of the tax claims.

Taking into consideration such actual status, the Ombudsman pointed to the fact that the municipal administration has the legal right to claim collection from the heirs of the deceased tax payer, based on property tax only for the last 5 years. Any collection of property taxes older than 5 years, in this specific case, would constitute illegal actions by the municipal administration, which would then bear the legal consequences.

The response by the municipal administration that it has to collect taxes for the past 10 years, due to the reason that the mayor had not given a proposal for permanent write-off of the tax liabilities to the Council of the Municipality, for the Ombudsman is both unacceptable and legally unsustainable. The municipal administration is obliged to comply with the Law regarding the obsoleteness of tax collection and must not require the citizens to pay taxes that are obsolete, regardless of the fact if it is relative (5 years) or absolute (10 years) obsoleteness. there is no cause-consequence connection between accounting permanent write-off of tax liabilities with the legal collection of such liabilities, i.e. the obsoleteness of the tax claims, since there are no provisions in the Law on Property Tax that depends on the fact whether the obsolete claims have been written off in accounting or not. The Director of the Public Revenues Office of RM also agreed with such application of this provision, after being asked for opinion by the Ombudsman in relation with this legal provision.

Contrary to Municipality Bitola, the mayor of Shtip Municipality submitted a proposal to the Council of the Municipality for permanent write-off of unpaid but obsolete for collection property taxes up to 2007, for around 15,000 citizens and companies. With the implementation of the Law, the Mayor of Municipality Shtip released around 15,000 citizens from baseless and illegally blocked transaction accounts and repossession procedures, which are unfortunately facing the citizens of Bitola.

The Ombudsman also reacted upon the complaint requesting the determining the legality of indebting with property taxes by Bitola Municipality, where the submitter appeals the fact that he does not possess any property on the territory of the Municipality, but his property is located in Mogila Municipality, where he has regularly paid his obligations based on property taxes. The Financial Affairs Department confirmed that this citizen has been indebted for a number of years for property of non-agricultural land that he has regularly paid, but that in 2013 he would be deleted from the records of taxpayers. Again, there was lack of information about how the administration determined that this tax payer had property to tax, nor how, even after the intervention of the Ombudsman, they again found that there is no property now, when the citizen had not

submitted any legal act, nor does he have such an act, stating that such agricultural land is in the name of another person.

The explanation that the citizen never filed a complaint against the decision of Municipality Bitola (where the tax was stated in the amount of 30.00 MKD) could not be accepted as legally justifiable to collect property tax for property that had never been in possession of the citizen. Such justification only points to the insufficient expertise of the administration in running the procedures that need to precisely and indisputably determine the tax payers on the territory of the Municipality. The Ombudsman advised the submitter of the complaint to initiate a procedure for refunding the wrongly collected property taxes.

This report year, the Ombudsman also took actions upon cases from citizens who were running procedures against Bitola Municipality and Probishtip Municipality for improperly determined market value of real estate, as the basis for determining the property tax thereof. The submitters believed that the administration had wrongly applied the Methodology for determining the market value of real estate property.

From these complaints, the Ombudsman found that the submitters initially accepted the market value determined by the Committee, and advised them, if the new decisions determined higher property taxes, that they should file an appeal, but also indicated the obligation, if in the meantime a change had occurred in the sense of increase or decrease of the value of property through a purchase, additional construction or re-adaptation of the used area, that they should file a tax report by January 31st in the year when the tax is determined, because otherwise, they could undergo a misdemeanour procedure and be issued a fine.

For the municipal administrations of Delchevo Municipality and the City of Skopje actions were taken due to untimely and irregular submission of decisions for property taxes for several years in the past, and because of this the citizen was forced to pay in a single amount taxes for several years in the past. The Ombudsman discovered that each year the decisions were sent by mail, to the address that was reported by the citizens, but for unknown reasons they did not receive them. In Municipality Shtip, a citizen filed an appeal against the decision on property taxes to the second-instance body 2 years ago, but has still not received a reply to the appeal. During the inspection, it was determined that the case had been lost, i.e. it was impossible to determine whether the case had been sent to the second-instance body or not. Activities were taken upon the recommendations of the Ombudsman and the documents of the case were fully renewed, and a new administrative act – decision was adopted.

The citizens were facing obstacles for registering their newly purchased real estate in the real estate cadastre records, due to delays in the procedures for determining property transfer taxes for the real estate by the municipalities, or due to delays with forcible collection from the same tax payer. On these grounds, the Ombudsman took actions directed at the administrations of Municipalities Delchevo, Kriva Palanka, City of Skopje, Kumanovo and Bitola. Usually, post-ponements in the procedure were found in cases when the tax payer in debt was the Government of the Republic of Macedonia or the Joint-stock company for managing residential areas owned by the Republic.

In relation with this, the City of Skopje has adopted Decisions on collection of property transfer taxes for real estate in the name of the Government of the Republic of Macedonia in 2010, the procedure for forcible collection thereof had begun, but the collection has not been performed for all the decision in over 3 years, and therefore the forcible collection for some of them is still ongoing. The Municipality of Gevgelija adopted a Decision to determine the tax in 2011, submitted two Reminders in 2011 and one in 2012, upon which the Government failed to act, and afterwards the Ombudsman advised that it is necessary to immediately carry out the procedure for forcible collection of the tax obligation. Kumanovo Municipality is indebted with the Decision for collection of property transfer taxes for real estate from the AD for construction and management of residential and business areas of significance to the Republic, but an appeal was initiated thereupon. The second-instance body denied the appeal of AD as ungrounded, after which the Company initiated an administrative dispute.

The Ombudsman also indicated to the municipal administrations about the lack of grounds for not beginning with forcible collection of tax obligations, emphasizing the legal provisions that

clearly state that neither the appeal nor the dispute postpone the execution thereof. The Municipality acted upon the recommendation and informed the Ombudsman that it would start with the forcible collection of taxes.

Taking into consideration the determined status in relation with exercising the rights of citizens in the area of administration of taxes by the local governments, the Ombudsman firstly indicated to the municipal administrations the legal obligation to carry out forcible collection of any unpaid due debt, regardless of the fact who is the tax payer, due to the reason that the failure to take such actions impedes the right to register transfer of ownership of real estate in the cadastre books, in which manner is undoubtedly impeded the management of property of citizens who, within a legal procedure, purchased and paid for the property.

The Ombudsman emphasized the need for the municipal administration to unambiguously apply the provisions of the laws that regulate the manner of submission of administrative acts that conduct the indebting the citizens with tax payments. Simultaneously, in completely professional and indisputable manner it must be recorded in which of the manner, stipulated by law, the reminders are submitted for overdue and unpaid tax debt to the tax payers, so that they would constitute indisputable administrative acts that lead to legal consequences for the tax payers. The Ombudsman would additionally like to point out that the provisions of the Law on Property Taxes should be decidedly complied with the goal of preventing their abuse and not to impose preconditions on citizens to exercise a certain right with previously paid taxes on any basis, which is the most typical occurrence during collection of real estate transfer tax.

Only through complete, unambiguous and accurate actions in accordance with the provisions of the laws and in compliance with the legal deadlines, the municipal administration will be a true service for the citizens in this area and would fully exercise and protect their rights, which would in turn increase the legal security of the citizens, but also increase their loyalty to the local governments and lead to regular payment of their obligations, which would be of benefit for the overall development of the local community.



# **EXAMPLES FROM PRACTICE**

#### NP no. 1943/13

Acting upon the complaint regarding the right to continuous monetary aid, the Ombudsman found that the competent Centre did not take any measures upon the request of the submitter of the complaint, i.e. the Centre did not prepare a legal act to rule upon the request. Following the intervention by the Ombudsman, the case was processed and a decision was adopted after two years from the submission of the request. The Ombudsman informed the responsible bodies about the inappropriate actions and the need to take measures, in order to provide proper social protection.

# NP no. 2558/13

The submitter of the complaint from Vrapchishte – Gostivar, requested from the Ombudsman protection of its rights because the Ministry of Labour and Social Policy failed to act upon the verdict of the Administrative Court, to annul the Decision of the Ministry of Labour and Social Policy and return the case for re-evaluation and decision.

Acting upon the complaint, the Ombudsman addressed the Ministry of Labour and Social Policy to immediately act upon the verdict and adopted a legal decision, in accordance with the recommendations given by the Administrative Court in the verdict, while referring to the binding nature of court decisions, in accordance with the Law on Court and the Law on administrative disputes. The Ministry of Labour accepted the suggestion of the Ombudsman and acted in line with the verdict, i.e. it adopted the decision and submitted it to the citizen.

# NP no. 1760/13

A citizen of Skopje submitted a complain stating that her rights have been violated by the Fund for Pension and Disability Insurance, due to the fact that she had been prevented to exercise the right to family pension, and dissatisfied with the first-instance decision, she filed an appeal.

The Ombudsman found that there was a violation of rights, and consequently on several occasions intervened before the competent second-instance body, pointing out the legal obligation to act immediately, because the legally defined deadline had passed, and to adopt a legal decision after determining the actual conditions. The appeal was accepted and the case was returned for ruling before the Fund for Pension and Disability Insurance of Macedonia, Regional Unit Skopje.

#### **NP no. 2522/13**

A citizen from Skopje requested an intervention before "Toplifikacija" AD – Skopje due to the failure to pay the approved amount with which the company was indebted. The submitter in his complaint stated that Toplifikacija AD Skopje failed to transfer to his transaction account the overcharged funds, although he had duly submitted the required documents.

Acting upon the complaint, the Ombudsman requested an immediate inspection of the records of the company, where it was confirmed that the monetary funds had not been transferred.

Following the intervention of the Ombudsman, the transaction of the funds was carried out, which was also confirmed by the submitter of the complaint.

#### NP no. 417/13

A citizen requested an intervention from the Ombudsman due to the postponement of the procedure upon the submitted appeal against the Decision of the first-instance body for cessation of the right to continuous monetary aid. The Ombudsman on several occasions intervened before the Ministry of Labour and Social Policy and the Competent Centre for social services with the request to take measures to accelerate the procedure and properly determine the actual situation. Following the interventions by the Ombudsman, the public enterprise Inter-municipal centre for social services of the City of Skopje submitted a notification that it had ruled upon the request of the citizen with a Decision recognizing his right to continuous monetary aid.

# NP no. 141/13

A citizen from the Czech Republic submitted a complain stating that her rights have been violated by the failure to pay her a pension granted with the act of the competent body for pension and disability insurance in Skopje. The Ombudsman, following the findings that the rights have been violated, contacted the representatives of the Fund for Pension and Disability Insurance of Macedonia, and specified the violation of the rights of the party with the failure to pay her pension. The Ombudsman was notified that the lack of payments was due to the unresolved compensation of damages claims between the two countries, and after additionally taken measures by the competent authorities, the problem was overcome and the party received the payments of pensions.

# NP no. 2233/13

A citizen from the Republic of Montenegro submitted a complain stating that her rights have been violated by the failure to decide upon the request to exercise the right to family pension, by the competent body for pension insurance in Skopje.

The Ombudsman, following the findings that the rights have been violated, contacted the representatives of the Fund for Pension and Disability Insurance of Macedonia, and requested to immediately rule upon the request, after which measures had been taken by the competent authorities to accelerate the procedure, i.e. the Decision was adopted and the pensions were paid.

#### NP no. 1394/13

The applicant from Skopje submitted a complaint due to violation of rights where, among other things, she claims to have graduated from the University "Ss. Cyril and Methodius" at the Faculty of Medicine Skopje and acquired the right to professional title graduated radiology technologist, and after passing the professional examination, the public healthcare institution University Clinic - Skopie issued a Certificate stating that the submitter had finished higher education, i.e. that she was a senior radiology technician. The submitter addressed the University Radiology Clinic to correct this mistake, but there had been no actions upon the request for a considerable period of time.

The Ombudsman reacted upon the complaint and requested the acceleration of the procedure, after which the error in the Certificate was corrected.

# NP no. 2983/13

A citizen from Strumica filed a complaint stating that the Health Insurance Fund – Regional Unit Skopje violated his rights by denying his appeal as late.

Acting upon the complaint, the Ombudsman conducted an inspection of the case and consequently identified inconsistencies in the disposition and the explanation of the decision, i.e. the Ombudsman found different general information about the insured in the decision. In addition, the Ombudsman determined that the citizen filed a timely appeal against the decision, but due to omissions by the units of the Fund the appeal was denied as late. The Ombudsman also established an error in the determination of the actual status. Specifically, there was documentation that the Fund claimed to be incomplete, which was the reason for the adoption of the negative decision, but the documentation was within the file.

Taking into consideration the stated omissions committed by the Fund, the Ombudsman requested that the case be re-evaluated and a decision adopted within the shortest period of time possible. The recommendations of the Ombudsman were accepted by the Fund which corrected the stated omissions and the submitter managed to exercise his right to recognizing costs for hospital treatment.

# **NP no. 1627/13**

A citizen from Skopje submitted a complaint to the Ombudsman due to the failure to act by the Ministry of Health upon the verdict of the Administrative Court that accepted his lawsuit claim, and the disputed Decision was annulled and sent back to undergo the procedure again.

The Ombudsman addressed the Ministry of Health, indicating the violation of rights due to the failure to act upon the verdict of the Administrative Court and recommended to the competent authority, within its competences, to immediately act upon the verdict and adopt a legal decision, in accordance with the recommendations given by in the verdict.

After multiple interventions by the Ombudsman (reminders, information and suggestions), the Ministry adopted a decision whereby it accepts the appeal of the citizen and returns the case for re-evaluation and ruling in the Health Insurance Fund - Regional Unit Skopje.

# **NP no. 1281/13**

Acting upon a request of a parent, the Ombudsman initiated a procedure and addressed the Ministry of Labour and Social Policy, the Ministry of Health and the Kindergarten "13 Noemvri" – Skopje, since the kindergarten had refused to admit the child because of its health condition. The issue was a child who was a carrier of bacteria, but not contagious with the bacteria.

The Ombudsman requested from the Ministry of Labour and Social Policy to take appropriate measures for the specific case, taking into consideration that in the said kindergarten there was a reoccurrence of the bacteria streptococci with the majority of children. The Ombudsman also requested opinions from the healthcare institutions about the case with this child, i.e. whether there was a possibility for the bacteria to be transmitted to other children, the manner in which protection should be applied and whether it is contagious, taking into consideration that the child had been receiving therapy for a long period of time. After the measures were taken, particularly after receiving the opinion from healthcare institutions, the kindergarten informed the parent that the child could attend the kindergarten.

#### NP no. 227/13

An employee from the Cultural-Information Centre – Skopje, requested an intervention due to the failure to act upon the adopted findings, judgement and opinion of the Fund for Pension and Disability Insurance for reassignment to another job position.

The Ombudsman, after finding the violation of her rights by the Cultural-Information Centre – Skopje, sent a recommendation in accordance with the findings, judgement and opinion of the competent body. The Ombudsman was informed that the employer made the decision for reassignment of the submitter to a job position that does not involve hard physical labour to prevent the occurrence of disability.

#### NP no. 2159/13

A citizen from Skopje submitted a complaint due to the violation of his constitutional and legal rights by the Real Estate Cadastre Centre Skopje.

Acting upon the complaint, the Ombudsman determined that the application for registration of change in the real estate cadastre for Cadastre Municipality Singelikj – 1, was denied by the real estate cadastre Centre Skopje, with an explanation that is exceptionally contradictory and unclear. Due to this, the Ombudsman requested the Internal Control and Supervision Department in the Cadastre Agency to take actions for inspection and control of the legality of actions of the Real Estate Cadastre Centre Skopje, within the context of the procedure in question.

The intervention of the Ombudsman was accepted in such manner that the Real Estate Cadastre Centre Skopje in the meantime carried out the necessary procedure and the case was positively solved, for which a Confirmation was issued for registering the change in the real estate cadastre and the real estate has been registered in the relevant property list.

#### NP no. 2990/13

A complaint was submitted to the Ombudsman by a parent who claimed that he addressed the Public healthcare institution University Clinic for Children's Diseases, specifically to the director, with a request to send his child for treatment abroad. With the goal of taking measures to improve the health conditions of the child, the submitter of the complaint asked the Clinic for Children's Diseases – Skopje, department of Chemo-oncology to issue a council-based opinion for sending the child for treatment abroad.

Having into consideration the best interest of the child and the right to highest level of protection guaranteed with the Convention on the Rights of the Child, the Ombudsman requested the Clinic to take measures for unhindered healthcare protection of a juvenile child, and for that purpose actions should be taken upon the request of the parent. The Clinic accepted the request and prepared a council-based opinion upon the request for treatment abroad.

# NP no. 2719/13

Due to its silence and the failure to act by the state body in charge of licensing a document in the area of civil engineering, a complaint was submitted to the Ombudsman by a citizen who had waited for six months for his rights to be implemented. Since the submitter of the complaint is from a smaller ethnic community, his address in the complaint was submitted as discrimination on ethical basis.

After the review of the available documentation submitted by the applicant and substantiated with regulations about the legal procedure that enables licensing for work in the area of civil engineering, the Ombudsman determined that the authorised licensing body – the Chamber of Architects, has committed the violation through inappropriate application of bylaw norms, which is why the Ombudsman sent a notice about the consistent compliance with the procedure and application of regulations when issuing licenses.

The Chamber, as the authorized body for licensing in the area of civil engineering, accepted the recommendations of the Ombudsman, thus the submitter of the complaint exercised his right.

#### **NP no. 775/13**

A complaint was submitted to the Ombudsman which, among other things, states that the submitter graduated from philosophy, and then became Master of Science at the University "Ss Cyril and Methodius" Skopje and acquired the title Master of Science in psychological sciences. She requested from the Chamber of Psychologists of the Republic of Macedonia to issue her a License for performing psychological activities and, upon the request, the Chamber adopted a Decision to issue her a special license for performing psychological activities which covers more specific professional forms of work in the area of Psychology of health. In the meantime, after issuing the decision, the Chamber requested that it should be returned, and then had not taken any activities after that. The Ombudsman intervened upon the complaint, in order to decide upon the request of the submitter, after which the Chamber of Psychologists adopted a Conclusion declaring the previous decision as void and adopted a new decision that ruled negatively upon the request, because the submitter had graduated from philosophy, and the license is issued to a person who graduated from psychology.

#### NP no. 3990/12

A parent from Skopje requested protection of the right of the child, otherwise a pupil in primary school, pointing out the inappropriate behaviour of the teacher towards the pupil, hence the child did not want to go to school.

Acting upon the complaint, the Ombudsman took a series of actions before the school, the Municipality and the State education inspectorate, after which the parent informed that the interventions by the Ombudsman led to noticeable changes in the treatment of pupil by the teachers, in a positive sense.

As a result, the attitude of the child improved towards school obligations, as well as the position of the professional offices of the school which began to work with the child and cooperate with the parents. The child remained to go to this school and was not transferred to another primary school, as the parents had been previously advised.

#### NP no. 470/13

Due to unjustified delays in the procedure for denationalization, a citizen from Skopje filed a complaint before the Ombudsman. Acting upon the complaint, the Ombudsman determined that the Verdict U-2 no. 1224/2011 dated 30.05.2010 of the Administrative Court, the lawsuit of the citizen was accepted and the Decision dated 28.03.2011 of the Committee for deciding upon requests for denationalization with headquarters in Chair – Skopje was annulled. However, although two years had passed in the meantime, the case had not yet been solved.

Based on such actual status, the Ombudsman advised the relevant committee to act in accordance with the stated legal opinion and the given recommendation and to adopt a new administrative act.

The intervention of the Ombudsman was acknowledged and a new decision was adopted whereby this particular request for denationalization was accepted.

# NP no. 2842/13

A submitter from Skopje filed the complaint to the Ombudsman specifying that although he submitted to the repossession officer a Confirmation from the PE Inter-Municipal Centre for social services Skopje that he receives on his transaction account funds based on social services, the repossession officer issued an order for blocking the account and beginning with the collection of the identified debt from these funds.

The Ombudsman submitted a written notification to the repossession officer and used the opportunity to point out the provisions of the Law on Repossession, which stipulate that they are excluded from repossessing income that the debtor is receiving as social security. Moreover, the Ombudsman asked for the transaction account of the debtor to be immediately unblocked, and the collection of the debt to stop immediately.

The repossession officer informed the Ombudsman that, as a result of his suggestions, the transaction account would be unblocked, and the determined debt would be collected only if the debtor proceeds with its settlement, on own initiative.

#### NP no. 323/13

The submitter of the complaint from Prilep requested an intervention due to the violation of rights arising from pension and disability insurance, i.e. due to failure to act upon a Verdict of the Administrative Court.

The Ombudsman found that there was a violation of rights by delaying the procedure, and the Ombudsman consequently intervened before the competent regional unit of the Fund for Pension and Disability Insurance, and requested that actions be taken upon the verdict immediately, i.e. to adopt a legal decision by complying with the legal judgement of the court. Following the intervention from the Ombudsman, the first-instance body adopted a Decision whereby the party realized their right for age-based pension, in a certain monthly amount.

#### NP no. 3258/13

The submitter of the complaint requested from the Ombudsman protection of his legal rights before the first-instance body, believing that his rights had been violated by the authorized civil engineering inspector.

Acting upon the complaint, the Ombudsman addressed the unit of local self-government with a request and information for timely suspension of execution of administrative acts for removing the additional construction until the legally effective completion of the legalization of the house, within whose composition is the disputed additional construction, i.e. until the determination of its legal status.

The proposal for temporary suspension of execution of the administrative act was accepted and the entire procedure will start over.

#### NP no. 1656/13

A citizen from Kochani submitted a complain stating that his rights to pension and disability insurance have been violated by delaying the procedure before the Fund for Pension and Disability Insurance and the second-instance committee.

Acting upon the complaint, the Ombudsman intervened with the State Committee as the second-instance body, but the Ombudsman, however, concluded that in the meantime the body acted upon the verdict, i.e. it granted the appeal and returned the case for re-evaluation before the competent first-instance body. Furthermore, the Ombudsman on several occasions intervened with the firstinstance body, emphasizing the obligation to rule within the legally defined deadline, after determining the actual status of the case and to adopt a legal decision. In the further course of the procedure the Fund for Pension and Disability Insurance adopted a decision whereby the citizen exercised his right to a proportional part of a disability pension.

# NP no. 2345/13

A parent submitted a complaint before the Ombudsman claiming that there was a delay in the procedure for execution of the Verdict of Primary Court Skopje 2 Skopje, whereby a juvenile child is entrusted to the care, custody, raising and partial support to the mother.

The Ombudsman, having in consideration the best interest of the child to be with the parent to whom the child had been entrusted with the court verdict, addressed the competent Centre for social services and the Primary Court with the request to take legal measures to execute the court verdict for entrusting the child. During further proceedings, the Ombudsman was informed that, with intervention from the police, the juvenile child had been returned to its mother, i.e. the court decision was executed for taking away of the juvenile child from the father and entrusted it to the mother, while the appropriate procedure was initiated against the other parent.

#### NP no. 5/13

A citizen from village Sirkovo – Kavadarci, submitted a complaint before the Ombudsman complaining of the Public Revenue Office – General Headquarters Skopje. Specifically, despite the fact that after the adoption of the decision for forcible collection of monetary funds, the applicant paid the amount of the fine and the amount of one-time special tax of 5% for other public revenues (and for which the submitter sent to the PRO the relevant evidence – payment forms), the decision was in the meantime carried out and the debt in question was charged once again.

The Ombudsman, from the complaint itself, the circumstances and the enclosed facts and evidence, inter alia, found that there was a violation of the rights of the respective citizen, and advised the Public Revenue Officer to immediately take actions for returning the forcibly collected amount in question for the fine and one-time special tax of 5% for other public revenues. The recommendation was accepted.

#### NP no. 3108/13

A family of an incarcerated person with disturbed health addressed the Ombudsman with a complaint that the said person is placed in a room with a number of inmates higher than the capacity of the room. There was smoking in the room, which led to the already poor health condition of the inmate to worsen even more. Dissatisfied with the actions of the prison administration, the family of the incarcerated individual asked the Ombudsman to take measures to protect his health.

After receiving the complaint, the Ombudsman performed an inspection of the room and talked to the incarcerated individuals where he found a violation of guaranteed rights.

The Ombudsman also advised the prison management that the incarcerated individual should be relocated to another room where there is no smoking, and also indicated the need for regular monitoring of his health condition. The recommendations of the Ombudsman were accepted.

#### NP no. 1457/13

At the request of a creditor, a repossession officer issued an order to carry out repossession from the transaction account of the debtor, for the purpose of settling a monetary claim. The debtor stated that he receives an income based on a pension, and the income, based on an order for forcible collection, issued by a different repossession officer, is already deducting one third of his pensions.

The citizen requested from the Ombudsman to intervene, in the sense that the repossession upon the new order should be stopped, because if it continues, the citizen would be left without basic resources and would be unable to satisfy the existential needs.

Acting upon the complaint, the Ombudsman found that by carrying out the new order for repossession, there is a violation of the rights of the submitter, since the Law on Repossession stipulates that repossessions of pensions of a debtor can be implemented up to 1/3 of the amount, and the creditors shall be settled from the funds of the debtor in the order in which they acquired the right to settlement from the same source, in this event the pension of the submitter of the complaint.

The Ombudsman sent a notification to the authorized repossession officer, where the Ombudsman requested that within the repossession procedure, to pay attention to the interests of the debtor, i.e. to comply with the provision of the Law on Repossession.

The repossession officer informed the Ombudsman that, in the sense of the given suggestions, the forcible collection upon the issued order would be implemented once the debtor settles his previous debt, i.e. no more than 1/3 of his pension will not be deducted.

#### NP no. 933/13

A resident of village Studenichani filed a complaint to the Ombudsman to inform the Ombudsman that he received an order from a repossession officer for forced collection of a debt for which the citizens had been regularly paying the instalments, in accordance with the agreement concluded with EVN Macedonia AD – Skopje, whereby a certain amount had been deducted from the amounts of his pension. After the intervention of the Ombudsman, the repossession decision was withdrawn and the deducted funds were refunded (repaid).

#### **NP no. 643/13**

The submitter from Skopje requested from the Ombudsman to take measures to re-examine overdue debt, due to stated unauthorized use of electric power from 2009, for which the submitter received no notification whether the debt had been sued or obsoleteness was determined.

The Ombudsman communicated with EVN Macedonia AD – Skopje and pointed out that the legal provisions for obsoleteness must be respected, unless a court procedure had been initiated for the determined unauthorized use of electric power. The recommendations of the Ombudsman were accepted.

# NP no. 844/13

A submitter from Skopje submitted a complaint to the Ombudsman, stating that EVN Macedonia AD – Skopje violated his right to management of property, i.e. officials from EVN placed a measuring cabinet on a pole located on his property.

The Ombudsman addressed EVN Macedonia AD – Skopje and requested information on the basis of which legal acts and bylaws the measuring cabinet was placed on the pole located on private property and asked for the immediate dislocation thereof. The request of the Ombudsman was accepted by EVN Macedonia AD – Skopje and the measuring cabinet was dislocated.

#### NP no. 2059/13

A family of five members (husband, wife, son, daughter-in-law and grandson) complained about the delay in the procedure for admission in citizenship of the Republic of Macedonia, because they applied in 2010, pursuant to Article 11 of the Law – of Macedonian origin who had lived in the area of Gora - Republic of Kosovo.

Following the intervention of the Ombudsman before the Ministry of Foreign Affairs, which is the body that provides opinions to the Government of the Republic of Macedonia, the Government adopted a positive opinion, and the Ministry of Interior adopted a decision for admission into citizenship of the Republic of Macedonia.

#### **NP no. 1733/13**

A citizen from Skopje submitted a complaint requesting an intervention for protection of consumer rights due to her dissatisfaction with the purchased product.

The Ombudsman found a violation of the Law on Consumer Rights and the Law on Obligations in the part that applies to the guarantee for proper functioning of the sold article.

Due to the above, the Ombudsman requested from the State Market Inspectorate to take appropriate actions before the point of sale where the purchased product did not have the prescribed quality, as well as properties/ characteristics of its basic function. At the same time, the legal possibilities were pointed out which should be used to protect the rights of the submitter of the complaint, i.e. to have the purchased product replaced with a new one or to refund of the amount paid by the consumer for the purchased product.

The suggestions of the Ombudsman were accepted, and after the inspection supervision the submitter of the complaint was allowed to replace the purchased product of sub par quality to replace with a new product.

# NP no. 2476/13

A citizen who is a member of the Vlach community submitted a complaint to the Ombudsman because of the fact that, in the selection upon public advertisement, carried out by a state body, the constitutional principle of appropriate and fair representation of the members of communities living in the Republic of Macedonia was not complied with or implemented.

Taking into consideration the entire submitted documentation and the submitted lists for admission of candidates upon the published public announcement, the Ombudsman found that the submitter of the complaint meets the conditions for admission on the announcement, in accordance with the constitutional and legal norms that stipulate the implementation of the principle of appropriate and fair representation, which is why the recommendation was submitted to the competent body which accepted the said recommendation and expanded the quota for candidates that were admitted through the public announcement, whereby the submitter of the complaint exercised their right.

#### NP no. 2737/13

The citizen from Skopje requested an intervention from the Ombudsman, because the operator T-Mobile Macedonia charged the citizens for roaming services which the citizen had not used.

Acting upon the said claims, the Ombudsman determined that in this case there is unrealistic charging for this service, due to the reason that the disputed calls were made on the territory of the Republic of Macedonia, in a location that was 20 – 30 km away from the border with Republic of Serbia.

In light of this situation, the Ombudsman asked the Agency for Electronic Communication to suitably determine the actual status in relation with the invoiced amount to be collected, i.e. the submitter should not be charged for the service that he had not used, since it is not the citizen's fault that he was using the service in the network of the operator under conditions with omissions in the protection mechanisms for the service users from unsolicited roaming.

The Agency for Electronic Communications acknowledged the given recommendations, i.e. it adopted a decision obliging T-Mobile Macedonia to correct the bill in the part of traffic charged for roaming in the network of a mobile operator from Serbia, as if such traffic was carried out in its network.

#### **NP no. 2920/13**

A citizen from Skopje submitted a complaint before the Ombudsman because of the fact that the Ministry of Culture for a long period of time failed to conclude a contract with him for a project of national interest, which prevented the implementation of the project itself although the said project was adopted by the Ministry. Acting upon the complaint, the Ombudsman addressed the Ministry of Culture and fully presented the claims. The Ombudsman then requested taking measures to conclude a contract and smoothly implement the project which, according to the claims, is of national interest.

After the intervention of the Ombudsman, the Ministry of Culture acted upon the request and prepared a decision whereby the submitted exercised this right and the procedure was successfully completed.

#### NP no. 3092/13

A complaint was submitted to the Ombudsman by a citizen from Skopje who requested an intervention, because the Heating supply company Balkan energy DOOEL Skopje delivered her invoices to her apartment in a different name.

Due to this situation, the submitter was unable to pay the invoices and interest was being charged for this.

Acting upon the claims made and the documentation enclosed that undeniably confirms the ownership of the apartment, the Ombudsman addressed the Heating supply company Balkan Energy DOOEL and requested a correction of the customer's name and releasing her from interest because the failure to pay the invoices was not due to culpability of the submitter of the complaint. The recommendations of the Ombudsman were accepted, i.e. a correction was made to the name of the customer, and she was allowed to repay the debt in instalments for the disputed period when the charges were invoiced to a name different from the name of the apartment owner.

# NP no. 1760/13

A citizen of Skopje submitted a complain stating that her rights have been violated by the Fund for Pension and Disability Insurance, due to the fact that she had been prevented to exercise the right to family pension, and dissatisfied with the first-instance decision, she filed an appeal.

The Ombudsman found that there was a violation of rights, and consequently on several occasions intervened before the competent second-instance body, pointing out the legal obligation to act immediately, because the legally defined deadline had passed, and to adopt a legal decision after determining the actual conditions. The appeal was accepted and the case was returned for ruling before the Fund for Pension and Disability Insurance of Macedonia, Regional Unit Skopje.

# NP no. 54/13

The citizen from Skopje requested an intervention from the Ombudsman for collection of the service that had not been provided by the Public Enterprise "Vodovod i Kanalizacija" – Skopje.

Acting upon the complaint, the Ombudsman requested an explanation about the failure to act, i.e. the failure to perform the service to chlorate and rinse the facility, to be more specific the Ombudsman requested the performance of the service or the refund of monetary funds.

After the taken activities, it was determined that the service had not been provided due to the failure to set a date for the actions, but the Ombudsman received a reply that the executed payment is not disputable and that, due to the non-implementation of the service, following an intervention of the Ombudsman the funds were repaid to the service user.

# **NP no. 2809/13: 2810/13 and 2816/13**

In three individual cases, convicted persons submitted complaints for the same problem, where they complained about the behaviour of other convicted persons who used physical and psychological abuse to exert material benefit from them, as well as about the indolent attitude of the Security Service. The complaint claimed that these persons also treated other convicted persons in the same manner in the prison wing. Due to the unbearable situation of constant fear in the prison wing where the submitter of the complaints were placed, as well as the tension and the possibility for the entire situation to escalate into an incident with serious consequences, they asked the management of the institution to relocate the two problematic convicted persons to another department of the facility, but the request and the petition were not acted upon.

After conducting the inspection, the Ombudsman identified omissions in the operation of the Services, which is why the Ombudsman submitted a notification to the Penal Correctional Facility Idrizovo to consistently apply the Rulebook on weapons and the manner of performance of the work of the Security Department in a Penal Correctional Facility and a Juvenile Correctional Facility. After the recommendations given by the Ombudsman, the Penal Correctional Facility "Idrizovo" submitted the information that they had acted in accordance with the given suggestions and that the persons to whom the complaints referred had been transferred to other departments, in order to prevent further violence, or physical and psychological mistreatment.

# PROMOTION OF HUMAN RIGHTS

The promotion of human rights is an important segment of the operation of the Ombudsman. Mutual functioning and supplementing the promotion and protection of human liberties and rights is a precondition for effective protection of rights of citizens.

In the course of 2013, the Ombudsman organized a series of meetings, round tables and workshops, with the goal of exchanging experiences and good practices with the institutions with whom it takes actions within the competences. Within this cooperation, the Ombudsman emphasized the importance of implementing his suggestions and recommendations, thus eliminating the weaknesses in the operations of the institutions that affect the violations of citizens' rights.

With this purpose, the Ombudsman in cooperation with the Directorate for personal data protection, organized a workshop in relation with video surveillance in places of detention, after which the Memorandum of cooperation was signed between these two institutions in the field of project operations and mutual support.

Moreover, this was followed by workshops dedicated to the role of the judge in the exercising of rights of persons deprived of their liberty, as well as the detention of juveniles in police stations.

This year again, in the function of promotion and protection of human rights, the Ombudsman with the support of the Technical Assistance and Information Exchange instrument of the European Commission – TAIEX, successfully implemented five workshops, one of which was of regional character.

Specifically, under the sponsorship of TAIEX, the Ombudsman – National Preventive Mechanism (NPM), organized a regional conference where, in addition to the NPM representatives from the region, participants attended from the Association for prevention of torture, Committee against torture of the Council of Europe and NPM representatives of member states of the European Union – Slovenia and Poland. The conference was a forum for discussion about the competences of the NPM, the structural and organizational details, as well as about the cooperation with international bodies for prevention of torture and other types of cruel, inhuman and degrading treatment or punishment.

The last workshop supported by the Instrument of the European Commission TAIEX was dedicated to the operations in question. At this workshop, comparative presentations per topics with examples from domestic and European legislation, as well as examples from practice, were given by representatives of the Ombudsman of the Republic of Croatia. In addition to the exchange of experiences and best practices, this workshop also contributed towards the strengthening of the relations between the two Ombudsman institutions.

Just as in the previous years, this current year again the work of the Ombudsman was supplemented with a series of project activities whose purpose was to strengthen the institutional capacities in the area of protection of human rights and liberties, but also the promotion of the institutional mandate and competences, with the goal of bringing them closer to the citizens and the protection of their rights.

On the project plan in 2013, successfully were completed the last activities from the project that the institution undertook with the embassy of the Kingdom of the Netherlands in the Republic of Macedonia which began in late 2011.

The last phase of the multi-year project for support of the Ombudsman which, until 2011,

was financially supported by the Swedish international development agency, and implemented by the OSCE Mission, ended with a study visit to Holland, where the representatives of the institution from the departments for anti-discrimination and children's rights exchanged experiences and good practices with related institutions and bodies of this country. Within the last activities on this project, two issues were printed of the Bulletin of the institution dedicated to ecology and social protection and security.

Within the regional project "Best practices for Roma integration" supported by the European Commission, and implemented by the ODIHR, in September of last year, in Ohrid, a regional workshop was held with participation of the representatives of the Ombudsman institutions from the West Balkans, as well as representatives of other bodies that work in the area of anti-discrimination, particularly discrimination of Roma.

When it comes to the activities of the Ombudsman regarding the promotion of human rights, it is unavoidable to mention that the citizens, through the public information media, were timely informed about the operation and the new competences of the Ombudsman.

Hence, this report year we continued the open communication and the unhindered cooperation of the institution Ombudsman with the media, which resulted in the publishing of the announcements, positions and appeals of the Ombudsman, following of press-conferences, interviews as well as the Ombudsman's participation in the electronic media.

With the goal of bringing the institution closer to the citizens, in 2013 we continued with the printing of the Bulletin of the Ombudsman which, in addition to the offices of the Ombudsman, was distributed to the information points in Skopje municipalities.



# PREVENTION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Following the ratification of the Optional Protocol to the Convention for prevention of torture and other types of cruel, inhuman and degrading treatment or punishment, the National Preventive Mechanism was appointed, and in 2013 it carried out 32 preventive visits, used to inspect the treatment of persons deprived of their liberty in places of detention and gave recommendations to the relevant bodies, for the purpose of overcoming the identified weaknesses.

The Optional Protocol to the UN Convention on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

The National preventive mechanism in 2013 paid 16 regular and 16 follow-up/control visits. Pursuant to Article 18 of the Optional Protocol to the Convention for prevention of, the Ombudsman – National Preventive Mechanism in the past period included external associates – experts from the Association of Psychiatrists, Association of Social Workers of the City of Skopje, Chamber of Psychologists, Union of Defectologists, Association of Forensics experts from the Institute of Judicial Medicine, Association for Criminal Law and Criminology, as well as the Macedonian Young Lawyers Association, which is the authorized association for free-of-charge legal aid, and which organizations have the required skills and professional knowledge in the area of authorizations taken by the mechanism in the places of detention. This ensured the multidisciplinary approach during the carrying out of the preventive visits, which was one of the recommendations of the Agency for Prevention of Torture.

In addition to the standard visits to places of detention, the NPM conducted follow-up visits to open institutions as well (de facto facilities where freedom of movement is limited), in order to determine the treatment with vulnerable categories of persons, particularly persons with special needs, children, as well as asylum seekers. This year, the NPM started to undertake visits to border crossings and the Customs Administration, as places where persons are deprived of their liberty, in accordance with the legal regulations. Special accent in 2013 was placed on the situation with illegals, taking into consideration that the number of migrants and asylum seekers coming from countries involved in conflicts is rising, transiting through the country to their desired destinations.

This report year, 10 visits were paid to police stations, 7 visits were made to prisons, 1 visit to a juvenile correctional facility, 3 visits to border crossing, 2 visits to centres for asylum seekers and foreigners, 3 visits to institutions for persons with special needs, 4 visits to institutions for care of children, a visit to the Psychiatric Clinic, and a visit to the Customs Administration.

Based on the paid visits, the National Prevention Mechanism determined that there were improvements in the record keeping of persons deprived of their liberty in the police stations, and this was noted during the regular visits to these places of detention, where in majority of the police stations, the NPM found that the recommendation is followed to keep a logical turn of events in the record-keeping.

In the course of the follow-up visit to the Special Institute Demir Kapija, it was determined that the NPM recommendation was carried out for acquiring consent from the occupant or from their guardian, to take contraceptives. After the visits to the other facilities where persons with special needs are accommodated, the NPM with an official note initiated two cases in the Department for protection of children rights and rights of the persons with special needs.

More characteristic cases for which there were reactions from the National Preventive Mechanism, based on the situation found during the follow-up visits to the penal correctional facilities, were Strumica prison and Ohrid prison. Following the visits paid to these two facilities, the NPM requested a professional – instructional supervision to be conducted by the Administration for execution of sanctions. Based on the recommendations given by the National Preventive Mechanism, Strumica prison arranged a special room for health examinations – an infirmary, which previously did not exist in this place of detention, and the director of the Ohrid prison gave orders not to use the rooms for issuing the measure solitary confinement, accepting the recommendations of the NPM that the conditions therein were inhumane and below the desired international standards. In addition, due to the worrisome conditions found in prison Skopje, as well as in the Juvenile Correctional Facility, the National Preventive Mechanism conducted extraordinary visits for which it submitted a request for taking urgent measures to the Ministry of Justice.



# OUT-OF-CASE OPERATIONS AND OTHER ACTIVITIES

### Surveys, initiatives, opinions and recommendations

Based on certain occurrences initiated from the operations in question, the Ombudsman in 2013 conducted surveys in several areas, in order to identify and remove certain problems that limit the rights of citizens.

The surveys were conducted based on questionnaires and survey lists, but also with more direct review and interviews with the employees in the facilities, after which Information and Special reports were prepared and submitted to the competent institutions with specific recommendations for overcoming the identified deficiencies.

Namely, in the **area of civic status**, the Ombudsman conducted a survey for reviewing the general conditions with the number of persons that have not been registered in the birth records, for which the Ombudsman prepared information stating that in the Republic of Macedonia there is still a significant number of persons that have not been registered in the birth records. Due to the fact that this occurrence constitutes a serious obstacle for exercising the basic rights of the citizen, the Ombudsman recommended intensifying the registration of persons in the birth records of citizens.

After monitoring the **situation with homeless people** in the country, the Ombudsman conducted a survey whether and to what degree are their rights respected – the right to social protection, education, healthcare, housing and other rights, as well as if there is compliance with the principle of non-discrimination. For this purpose, the Ombudsman performed an inspection of the Admission Centre in Chichino village, where the Ombudsman found inappropriate housing conditions. Specifically, it was found that the access was hindered to the rights for healthcare, i.e. due to the lack of medical personnel and untimely actions taken by the healthcare services, especially of urgent medical assistance – ambulances, as well as the lack of equal conditions for exercising the right to education by the children members of the Roma community, with elements of discrimination due to ethnicity.

For the situation found with the homeless people, the Ombudsman through a Special report recommended taking of specific measures for improving the living conditions and accommodation of persons in this admission centre.

In the **area of protection from discrimination**, the Ombudsman in 2013 took part in the regional project "Best practices for Roma integration, within which project was conducted the on-site survey "Aspects of discrimination towards the Roma community and their protection." The project was implemented with the support of the Office for democratic institutions and human rights OSCE/ODIHR.

The survey provided data on the personal perception of the Roma community about the discrimination, as well as on the information known by the members of this community regarding the institution of Ombudsman.

The obtained data lead to the conclusion that the members of the Roma community still feel discriminated on different bases, especially based on ethnical and political affiliation and the colour of their skin. In addition, the survey showed that the majority of the respondents have been informed about the existence of the institution Ombudsman, but not about the manners and mechanisms for protection of rights of citizens. The survey results were presented on special round tables that were held in Skopje, Tetovo and in Shtip.

During 2013, the Ombudsman conducted a survey about the familiarity of the term discrimination and the use of mechanisms for protection from discrimination.

The survey was implemented through an anonymous questionnaire which contained 12 questions on which the citizens answered voluntarily in the offices of the Ombudsman in Skopje and in the six regional offices (Bitola, Kumanovo, Kichevo, Strumica, Tetovo and Shtip).

Based on the obtained data, the Ombudsman determined that the majority of the respondents are familiar with the term discrimination, but it is necessary to strengthen the mechanisms for protection from discrimination. The survey showed that it is necessary to take a high number of activities for educating the citizens, in order to learn about and recognize discrimination, its forms and shapes of appearance, as well as the possibilities and procedures for protection.

In the function of protection of **rights of children and persons with special needs**, the Ombudsman conducted a survey regarding the conditions for enrolling children in special primary and secondary schools, with accent on children from the Roma community. The survey was carried out based on the submitted questionnaire, but also through direct inspections of the facilities, in order to determine whether the children have been enrolled with the appropriate documentation in these schools, and whether the competent institutions accepted the previously submitted recommendations of the Ombudsman.

Following the analysis of the data, the Ombudsman prepared information stating the reduction of the number of Roma children in these schools and recommended higher dedication of the competent authorities, in relation with the improvement of education of children with special needs.

After monitoring the situation with **exercising the right to social protection and social security of the citizens**, the Ombudsman realized another survey about the work of centres for social services, regarding the exercising the right to social monetary aid, continuous monetary aid and the right to assistance from another person.

After conducting the review and the situation found after the analysis of the acquired data, the Ombudsman found a series of weaknesses in the operations of these centres, for which the Ombudsman prepared a Special report recommended the Ministry of Labour and Social Policy to take specific measures for overcoming the identified weaknesses, primarily regarding the equipping of the social services centres, with the goal of having more efficient operation and improvement of the attitude of the employees towards the citizens.

After reviewing the general conditions in terms of informing the children of their rights and the mechanisms for their protection, as well as their knowledge of the role of the Ombudsman in society, in the course of 2013, the Ombudsman visited some primary and secondary schools in the Republic of Macedonia. After meeting the pupils, the Ombudsman concluded that the pupils are not sufficiently aware of their rights and the manners of their protection, and also determined that the children do not have sufficient information about the competences of the Ombudsman and the significance of the Convention of the Rights of Children.

The information thus obtained was used by the Ombudsman to prepare special Information recommending that the Ministry of Education and Science takes activities for better education of children regarding human liberties and rights and the mechanisms for their protection, on all levels and for all types of education.

In 2013, the Ombudsman submitted to the Constitutional Court of the Republic of Macedonia a **Proposal** for evaluation of the constitutionality and legality of Articles 10-a, paragraph 5 and 10-b, paragraph 1 of the Law on contributions for mandatory social insurance, whereby the citizens were imposed the obligation to submit a statement about generated revenues. Namely, the Ombudsman found that the Constitutional Court has already intervened and cancelled this legal provision, but that the amendments to the Law on contributions for mandatory social insurance, made last year, the said obligation is re-introduced.

Within the report period, the Ombudsman submitted an **Initiative** for modifications and amendments to the Rulebook on supplying heating energy to the Regulatory Energy Committee. The Ombudsman believes that there are inconsistencies in this Rulebook regarding the residen-

tial units where there is a single measuring spot with multiple independent lines. Specifically, in accordance with the Rulebook, the citizens are obliged to pay the bills regardless of the fact that no consumption is registered with those citizens.

The Ombudsman – National preventive mechanism, submitted an **Initiative** for amendments to the Law on Criminal Procedure in the field of exercising the rights of remanded persons. Starting from the fact that it is the duty of the Public Prosecutor to prosecute perpetrators of acts of crime, the Ombudsman is of the opinion that the same body should not make decisions on the rights of remanded persons.

After identifying the problem with payments of salaries to employed women during absences caused by pathological pregnancy, the Ombudsman gave his **Opinion** to the state institutions indicating that the provision is unjust where women with risky pregnancies are treated as sick and only get 70% of the salary, when the Constitution and the laws provide special protection for women during pregnancy, birth and motherhood and stipulate the salary of 100%.

Based on the findings that students of first year of secondary education have mandatory reading of the "New Testament", the Ombudsman submitted a **Recommendation** to the Ministry of Education and Science and to the Bureau for development of education, requesting that this literature be withdrawn from the curriculum. The Ombudsman does not dispute the goal of acquiring general knowledge about the oldest literatures in the world, and in that context to learn about the distinctions and characteristics of the said literature it is not justified to have one part of the Bible planned as mandatory literature.

The surveys, initiatives, opinions and recommendations have been posted on the website of the Ombudsman <a href="https://www.ombudsman.mk">www.ombudsman.mk</a>.

## COMMUNICATION AND COOPERA-TION OF THE OMBUDSMAN WITH INTERNATIONAL BODIES AND ASSOCIATIONS

In the function of promotion and protection of human rights and liberties, the Ombudsman this report year continued with the strengthening of the communication and cooperation with international bodies and associations for human rights, as well as national institutions on worldwide, European and regional level.

### **International communication and cooperation**

Specifically, the Ombudsman presented his positions to the United Nations Council for human rights regarding the universal periodic review (UPR) for the Republic of Macedonia where the entire situation is reviewed regarding the respect for human rights and the manner of their protection. In the opinion of the UPR the findings and positions were specified in relation with the implementation of the previously given recommendations in the part of application of the Convention of rights of persons with special needs, the conditions in places of detention and the treatment of remanded and convicted persons, protection from discrimination, gender equality, as well as compliance with the Paris principles for acquiring Status A for the National institution for human rights.

Last year, the Association of ombudsmen and mediators of Francophone, by organizing a congress and thematic meetings in Dakar, Senegal, marked the 15-year jubilee of its existence and active involvement in the area of protection of human rights. At this meeting, where there was participation by ombudsman institutions of Francophone member states, and recommendations were adopted for the purpose of promotion of mediation and protection of children's rights, and also the new members of the working bodies of this association were elected.

In its function as a full member of the Association of Ombudsmen in the Mediterranean, the Ombudsman in Amman, Jordan took part at the annual meeting dedicated to the good resolution of complaints that refer to the administration. The participants at this meeting paid special attention to the cooperation with the administration and the problems they encounter in communications with the administration bodies.

Within the International Ombudsman Institute (IOI), the Ombudsman actively followed the information that the Institute, as the leading organization within the international ombudsman community, regularly shared with its members and informed them about the developments in the field of protection of human rights and liberties on worldwide level.

Starting with the obligation stipulated by the Optional Protocol to the Convention for prevention of torture and other types of cruel, inhuman and degrading treatment or punishment, the National Preventive Mechanism submitted the annual report about the conditions in the places of detention to the United Nations Subcommittee for prevention of torture and the Committee for prevention of torture and other types of cruel, inhuman and degrading treatment or punishment of the Council of Europe.

### **Cooperation on European level**

The European Ombudsman Institute (EOI), last year held its regular Assembly in Innsbruck, Austria, thus marking the 25th anniversary of its existence.

In 2013, the European network of ombudsmen of member states of the European Union and EU candidate countries, held the ninth national seminar in Dublin, Ireland, dedicated to the topic of "Good administration and rights of citizens during austerity times." The main accent of the seminar was placed on the role of ombudsmen in the compliance with the principle of exercising the rights of the citizens, with a special emphasis on the new methods of ombudsman institutions in the protection of civil rights. The seminar was also an occasion to officially promote the new president of this Network, Ms. Emily O'Reilly former Ombudsman of the Republic of Ireland.

The Ombudsman expanded its activities in the area of protection of human rights and liberties by networking into another association. Specifically, entitled European network of national human rights institutions (ENNHRI), it was formally established in 2013, and this European network has the goal of uniting all national human rights institutions from the European continent. At the meeting held in Geneva, Vienna and Budapest, the Statute was adopted along with the strategy for the operation of the European network, as basic tools for its further operations and actions. Furthermore, discussion were held for mutual cooperation regarding the rights of vulnerable groups – migrants, Roma, LGBT population, as well as regarding the work upon cases and the cooperation with international bodies for protection of human rights and liberties.

The Ombudsman - National Preventive Mechanism (NPM) took active part at the international NPM meeting held in Strasbourg in France, where it was discussed about immigration detention in Europe. The focus of this international meeting was put on the access to legal aid of the immigrants placed in admission centres, care for women and other vulnerable groups, healthcare, as well as safety and social activities. The conference attendees jointly identified the need for submission of a Declaration to the European bodies for development of standards regarding the immigration centres.

The Ombudsman was also active in the part of anti-discrimination with the participation at the regular meeting of the European Committee against racism and intolerance (ECRI) which is held every year in Strasbourg, France, where the challenges were reviewed related to the current institutional and budget environment.

### **Cooperation in the region**

In 2013, the Ombudsman institutions from the Western Balkans region, on two occasions participated in meetings dedicated to the inter-institutional cooperation, building partnerships and mutual support. Within the organization of the OSCE Mission in Bosnia and Herzegovina, the first meeting was held in Sarajevo, and there were discussions held about the challenges for the Ombudsman institutions in the implementation of their recommendations. The second meeting was held in Danilovgrad in Montenegro, where aside from the aspect of regional and inter-institutional cooperation, the agenda also included the cooperation with the parliament and the role of the ombudsman as a mechanism that contributes to the functioning of the principle of the rule of law.

In the organization of the office of the Council of Europe and the Office of the United Nations High Commissioner for Human Rights, the Ombudsman took part in the regional conference that was held in Prishtine, entitled as Ombudsman institutions and the judiciary system for protection of human rights. At the conference, the ombudsmen from the region took a joint position about the strengthening of mutual cooperation, with the goal of more efficient protection of human rights and liberties.

Sarajevo hosted another meeting of international kind, this time dedicated to the positive practices in the protection of human rights of members of armed forces. The conference was organized by the Office of the parliamentary military representative of Bosnia and Herzegovina

and the UNDP Office for Bosnia and Herzegovina.

At the invitation of the UNDP Office and the Ombudsman of the Republic of Croatia, Ms. Lora Vidovic, the Ombudsman participated at the international conference that was held in Zagreb, Republic of Croatia where there were discussion about the joining of the ombudsman institutions to the European Union and the Universal Periodic Review. At the meeting, experiences were shared from the regions and there were discussions about the measures required to strengthen the role of Ombudsman institutions in the implementation of the recommendations for human rights with special accent of the UPR notification as a significant process that analyses and determines the conditions with the respect of human rights by each member country of the United Nations.

On regional level, the Ombudsman - National Preventive Mechanism (NPM) in 2013 actively attended the NPM meetings in Belgrade, Republic of Serbia, where the topics of interest for the MPM network of Southeast Europe were the multidisciplinary approach of the NPM, the standards of healthcare in the places of detention, the role of healthcare workers in prevention of torture, as well as the standards of psychiatric institutions of significance for the operation of the NPM.

Children's rights and protection of children were in the focus of interest of the Ombudsman in 2013 as well. As a member of the regional network of ombudsmen for children – CRONSEE and with the support of the Save the Children in Novi Sad, Vojvodina, and in Zagreb, Republic of Croatia, the Ombudsman took part in two working meetings for prevention of exploitation of children and protection of children in conflict with the Law.

In the organization of the Chamber of Repossession officers in Durres, Republic of Albania, a seminar was held where the Ombudsman presented its positions, suggestions and recommendations for the protection of citizens and their rights in the repossession procedure.

At the invitation of the Republic of Poland and the Ombudsman of this country, Ms. Irena Lipowitz, in March of 2013 in Warsaw, the Ombudsman took part at the working meeting that was organized by the Vishegrad group with the Ombudsmen from the Western Balkans.

The Ombudsman, at the invitation of the Ombudsman of the Republic of Turkey, Mr. Mehmet Nihat Omeroglu, in September of 2013, participated at the international Symposium held in Ankara and Istanbul, where he gave his active contribution in opening the path for cooperation with the Ombudsman institution of this country.

# STATISTICAL DATA

In 2013, the Ombudsman acted upon 4,599 complaints, out of which during the report period 3,780 were received from 4,041 submitters, and the other 819 were carried over from the year before.

This report year too, most of the complaints - 2,815 were accepted personally from the submitters in the offices of the Ombudsman, by mail 506 submissions, by electronic mail 269, 104 through the website, 60 with telephone calls, 6 by telefax, and 20 were formed at own initiative.

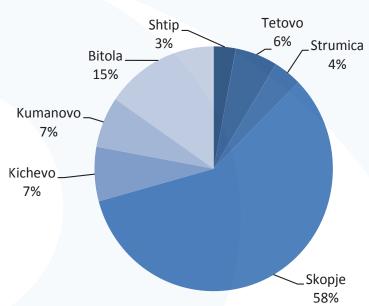
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	Број	%	Број	%	Број	%	Број	%	Број	%	Број	%
Non-discrimination and adequate and equitable representation	21	0,69	20	0,55	16	0,4	42	0,99	32	0,74	51	1,35
Police procedures	236	7,81	252	6,94	238	5,89	179	4,21	220	5,06	177	4,68
Civil states and other interior affairs	132	4,37	154	4,24	169	4,18	126	2,96	156	3,59	97	2,57
Judiciary	883	29,22	744	20,48	757	18,72	732	17,2	710	16,34	732	19,37
Social protection	115	3,81	95	2,62	140	3,46	193	4,53	240	5,52	206	5,45
Labor relations	253	8,37	389	10,71	365	9,03	412	9,68	306	7,04	246	6,51
Housing relations	34	1,13	57	1,57	89	2,2	65	1,53	57	1,31	76	2,01
Health protection	69	2,28	72	1,98	93	2,3	115	2,7	166	3,82	128	3,39
Pension and disability insurance	180	5,96	181	4,98	159	3,93	237	5,57	241	5,55	224	5,93
Education, science, culture and sport	39	1,29	49	1,35	48	1,19	45	1,06	35	0,81	34	0,9
Children's rights	145	4,8	157	4,32	111	2,75	144	3,38	161	3,7	116	3,07
Urban planning and construction	162	5,36	170	4,68	170	4,2	146	3,43	155	3,57	140	3,7
Environment	15	0,5	21	0,58	20	0,49	26	0,61	35	0,81	20	0,53
Finances	48	1,59	50	1,38	71	1,76	101	2,37	130	2,99	106	2,8
Property – legal relations	317	10,49	361	9,94	401	9,92	360	8,46	272	6,26	261	6,9
Consumers' rights	147	4,86	277	7,63	553	13,68	673	15,81	948	21,81	646	17,09
Penitentiary – correctional and educational – correctional			347	9,55	395	9,77	352	5,27	278	6,4	247	6,53
Persons with special needs									10	0,23	10	0,26
Census							12	0,28	3	0,07		
Eelectoral rights							90	2,11			42	1,11
Друго	226	7,48	236	6,5	248	6,13	206	4,84	191	4,39	221	5,85
TOTAL:	3022	100	3632	100	4043	100	4256	100	4346	100	3780	100

In the office of the Ombudsman in Skopje, as well as in the offices in Bitola, Kichevo, Tetovo, Kumanovo, Shtip and Strumica in 2013 around 7,950 citizens were admitted for discussions. The discussions with some of the citizens revealed that the Ombudsman is not competent to act, in which cases the citizens were advised of their legal possibilities for exercising their rights. However, there were citizens who, although familiar with the fact that the Ombudsman is not competent to act, due to their poor material situation, they still address the Ombudsman.

Taking this situation into consideration, the Ombudsman **recommends** real strengthening of the free legal aid system.

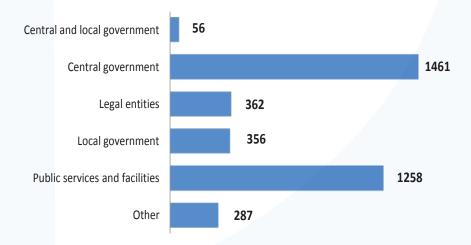
### **Image no.1**



Office of the Ombudsman in Skopje in 2013 acted upon 2.199 complaints, the Bitola office upon 582, in Kichevo upon 271, in Kumanovo upon 254, in Tetovo upon 217, in Strumica upon 144, and in Shtip upon 113 complaints.

In the report year, from the total of 3.780 complaints received, most of them or 1.461 or 38.65% referred to violations of rights by the central government, 1.258 or 33.28% referred to violations of rights by the public services and facilities, 362 complaints or 9.58% referred to violations of rights by the legal entities, in 356 complaints or 9.42% the rights were violated by the local government, in 56 complaints or 1.48% there were violations of the rights both by the central and the local government, and in 287 complaints or 7.59% the submitters complain about the violations of the rights by other entities.

### Chart no.1



During the report year, from the total number of 3.975 citizens – submitters, 1.777 or 44.70% did not state their ethnical affiliation, and 2.198 or 55.30% did state this fact. Most of the citizens – submitters who have declared their ethnical affiliation are Macedonians - 1.316 or 59.87%; 597 or 27.16% are members of the Albanian ethnic community; 105 or 4.78% are members of the Roma ethnic community; 71 or 3.23% are members of the Turkish ethnic community; 51 or 2.32 % are Macedonians – Muslims; 30 or 1.36% are Serbs; 9 or 0.41% are Bosnians; 11 or 0.50% are members of other ethnic communities, and the fewest number of 8 or 0.36% of the complaints were submitted by the members of the Vlach community.

Table no. 2

		Δ	R ACROSS		V OF CO				Υ						
									•	ETHN	CITY				
AREA	Complaints received in 2013	Anonymous	Number of formed case upon a self-initiative	Organization (Association)	Number of complainants	Macedonians	Albanians	Serbs	Roma	Macedonians – Muslims	Bosniaks	Viachs	Turks	Ethnicity not declared	Other
Non- discrimination and adequate and equitable representation	51		2	1	50	6	5		10					28	1
Police procedures	177		2	1	177	59	29	1	10		2	1	6	69	
Civil states and other interior affairs	97			2	95	9	47	1	5				4	28	1
Judiciary	732			12	730	270	149	7	21		2		21	258	2
Social security and protection	206			1	205	54	69	2	18	4	1		4	53	
Labor relations	246	2		3	266	71	35	5	4				3	148	
Housing relations	76			1	75	29	8		1		1	1	2	31	2
Health protection	128	1	2	5	119	52	8		1			1	5	51	1
Pension and disability insurance	224			1	232	119	25	4	1				5	78	
Education, science, culture and sport	34			1	33	2	5		5	1		1		19	
Children's rights	116	1	7	6	112	26	14	1	1		1	1	1	67	
Urban planning and civil engineering	140			1	193	65	14		4	40				70	
Environment	20				21	7	3						1	10	
Finances	106				106	46	12						3	45	
Property-legal relations	261			3	273	110	11	1		2		1	6	142	
Consumers' rights	646		3	14	749	310	88	6	13	3	2	1	3	320	3
Penitentiary – correctional and educational – correctional	247	1	3	5	239	19	14		8					198	
Personal with special needs	10		1		9	3	1						1	4	
Election rights	42	3		2	38		5					1		32	
Other	221	2		6	253	59	55	2	3	1			6	126	1
TOTAL:	3780	10	20	65	3975	1316	597	30	105	51	9	8	71	1777	11

According to their place of residence, the majority of complaints were submitted from Skopje, or 1574, then they are followed by complaints from submitters from: Bitola, Kumanovo, Kichevo, Tetovo, Shtip, Ohrid and other major urban communities, as well as from other countries. It is noticeable that the highest number of submitters of complaints come from places where the regional offices of the Ombudsman are located.

Table no. 3

		OF RECEIVED	COMPLAINTS		
	ACROSS CIT	IZES AND STATES	OF FOREIGN COMPLAINANTS		
City	Year 2012	Year 2013	City	Year 2012	Year 2013
Berovo	5	10	Negotino	17	21
Bitola	615	421	Ohrid	94	89
Bogdanci	2	6	Pehcevo	5	4
Valandovo	7	3	Prilep	107	88
Veles	57	62	Probistip	15	14
Vinica	13	12	Radovis	19	31
Debar	19	22	Resen	18	4
Delcevo	10	10	Skopje	1907	1574
Demir Hisar	17	13	Struga	82	52
Demir Kapija	2	-	Strumica	93	99
Dojran	2	-	Sveti Nikole	10	13
Gevgelija	31	31	Tetovo	200	204
Gostivar	70	66	Stip	106	112
Zletovo		1	Albania	-	1
Kavadarci	36	38	Bosnia and Herzegovina	1	-
Kicevo	166	190	Bulgaria	-	2
Kocani	28	36	Kosovo	1	-
Kratovo	5	8	Romania	-	1
Kr. Palanka	21	26	Serbia	5	2
Krusevo	9	13	France	-	1
Kumanovo	286	267	Montenegro	-	1
M.Kamenica	9	3	Turkey	1	-
Мак.Brod	18	13	Switzerland	-	1
Mavrovo	4	2	No city or state selected	233	213
			TOLAL	: 4346	378

### Data per area

The majority of complaints were received from the area of: judicial system 732 or 19.37%; consumer rights (public utilities and other fees) 646 or 17.09%; from the property-legal area 261 or 6.90%; from the penal correctional and juvenile correctional facilities 247 or 6.53%; from labour relations 246 or 6.51%; pension and disability insurance 224 or 5.93%; social protection 206 or 5.45%; from the area of protection of rights in police procedures 177 or 4.68%; urban planning and construction 140 or 3.70%; healthcare 128 or 3.39%; protection of rights of children 116 or 3.07%; finances and financial operations 106 or 2.80%; citizens statuses and other internal issues 97 or 2.57%; residential relations 76 or 2.01%; non-discrimination and adequate

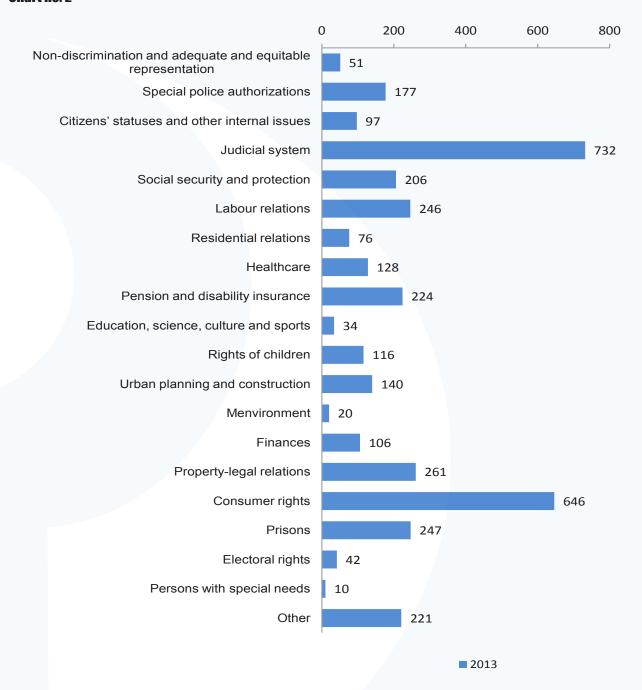
and equitable representation 51 or 1.35%; electoral rights 42 or 1.11%; education, science, culture and 34 or 0.90%; environment 20 or 0.53%; persons with special needs 10 or 0.26%; as well as from other areas where the Ombudsman received 221 or 5.85% of complaints.

Table no. 4

				04.04.7	TO 24	12 204	3 ACDO	99 D	SIMAINIC								
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			ears			self-	Manner of closing								ate		
			us y			Ø	2		Violations found				ent	and			
AREA	Received in 2013	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Number of formed case upon initiative	Со одлука за запирање или непокренување постапка	Решени на друг начин	Opinion, suggestions and recommendations provided	Acted upon the Ombudsman's intervention	All legal activities taken by the Ombudsman	No activities taken upon the Ombudsman's interventions	Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending case
Non-discrimination and adequate and equitable																	
representation	51	51	12	63		2	30		19	15	1	3	1			46	17
Police procedures	177	178	54	231		2	165	10	13	10	1	2				186	45
Civil states and other interior affairs	97	97	51	148			59	7	37	22	7	8	2			95	53
Judiciary	732	742	92	824			583	7	121	105	6	9				701	123
Social protection	206	206	46	252			152	1	67	54	5	8			2	212	40
Labor relations	246	269	92	338	2		177	11	87	53	29	5	2			272	66
Housing relations	76	76	3	79			47	2	12	12						61	18
Health protection	128	125	48	176	1	2	69	3	78	46	6	26	24		2	125	51
Pension and disability insurance	224	233	61	285			159		93	83	4	6			2	246	39
Education, science, culture and sport	34	34	7	41			29		10	7	2	1				38	3
Children's rights	116	118	11	127	1	7	73	2	45	38	1	6	2	2	1	115	12
Urban planning and construction	140	194	49	189			111	6	36	8	16	12			13	141	48
Environment	20	21	7	27			19		7	5	1	1				25	2
Finances	106	106	20	126			58	1	54	44	3	7			1	106	20
Property – legal relations	261	276	69	330			189	1	109	86	12	11	3	3	3	288	42
Consumers' rights	646	763	114	760		3	430	14	239	214	20	5	1		1	678	82
Penitentiary – correctional and educational – correctional institutions	247	244	30	277	1	3	151	6	93	85	3	5	1			246	31
Persons with special needs	10	9	2	12		1	5	1	4	3		1				9	3
Electoral rights	42	40		42	3		35		4	4						42	
Other	221	259	51	272	2		175	1	46	37	6	3			2	221	51
TOTAL:	3780	4041	819	4599	10	20	2716	73	1174	931	123	119	36	5	27	3853	746

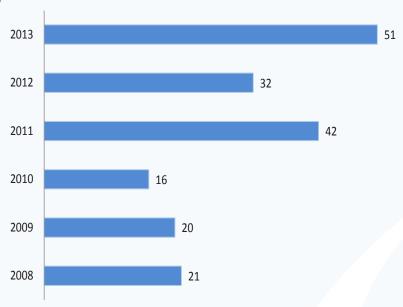
In 2013 the number of complaints of citizens regarding the operations of the judicial system increased in comparison with the previous report year, and the number also increased of the citizens complaining of discrimination. The number of citizens who asked for protection as consumers was significantly reduced.

### Chart no. 2



In 2013 the Ombudsman acted upon 51 cases where the citizens claimed protection because they thought they were discriminated on various bases. Compared to the previous years, there was a significant rise in the number of citizens who agreed for the Ombudsman to investigate their complaints as discrimination, which points to the fact that the citizens are more encouraged to fight discrimination.

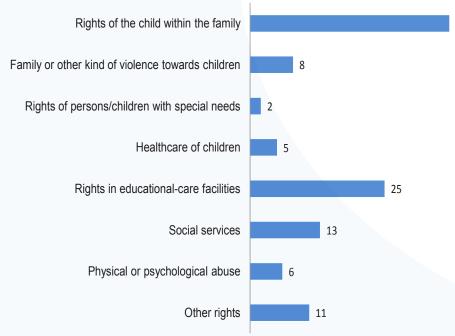
Chart no. 3



During the report year, in the part for non-discrimination and the adequate and equitable representation, 51 complaints were received, i.e. 19 more than in the previous year. Most of these complaints or 26 referred to discrimination by ethnic affiliation. Out of them in 19 cases a violation was stated, and the Ombudsman accordingly submitted suggestions and recommendations. In 15 cases actions were taken following an intervention of the Ombudsman, and in one case all legal possibilities were taken, while in three cases we are waiting for a reply.

From the total of 116 complaints received in relation with rights of children 46 or 39,66% apply to rights of the child within the family, 25 or 21,55% to violations of rights by educational-care facilities, 13 or 11,21% to social services, 8 or 6,90% to family or other kind of violence towards children, 6 or 5,17% to physical or psychological abuse of children, 5 or 4,31% to healthcare of children, 2 or 1,72% to children with special needs and 11 or 9,48% to other rights of children. The Ombudsman found that this report year the violations continue of the rights of children in multiple spheres, and particularly there are violations of rights of children within the families.

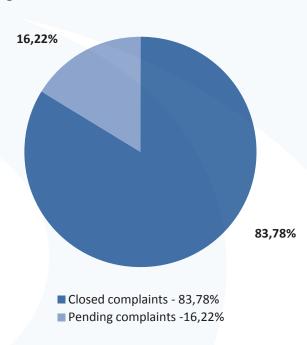
Chart no. 4



### **Actions**

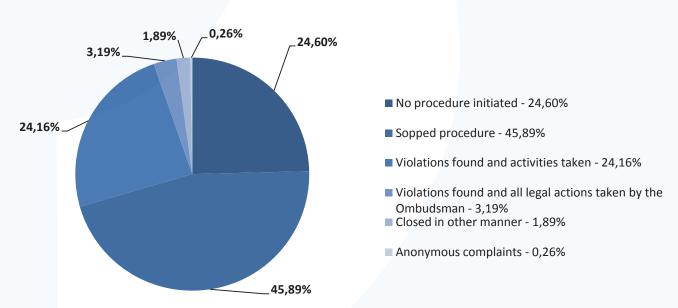
From the total number of 4,599 complaints, 3,853 have been completed or 83.78% of the cases, while in 746 or 16.22% of complaints the procedure is ongoing (Image no. 2)

### Image no. 2



From the procedures completed upon 3,853 complaints, in 948 complaints or in 24.60% of the cases a procedure was not initiated, for 1,768 cases or in 45.89% of the cases the procedure was suspended, while for 931 or in 24.16% of the complaints the Ombudsman identified violations of human rights and liberties, and the interventions by the Ombudsman were accepted. In 123 or 3.19% of the cases the Ombudsman took all legal actions, 73 or 1.89% of the cases were resolved in another manner, and 10 or 0.26% of the cases were anonymous. (Image no.3)

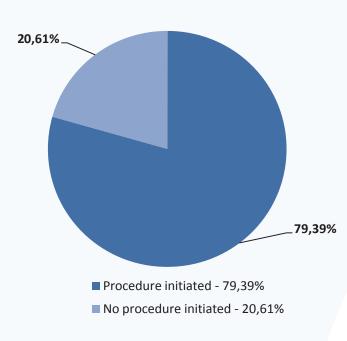
Image no. 3



In 2013 the Ombudsman, from the total number of 4,599 complaints acted upon 3,651 or 79.39%, while in 948 or in 20.61% of the complaints a procedure was not initiated. Due to such number of complaints where a procedure was not initiated, the Ombudsman believes that there are still citizens who insufficiently know the legal possibilities of the institution, therefore

the Ombudsman believes that there is a need for promotion of human rights and liberties and the institution of Ombudsman, in order for the citizens to be informed of their rights, manner of protection thereof, as well as the competences of the Ombudsman. (Image no. 4)

### Image no. 4

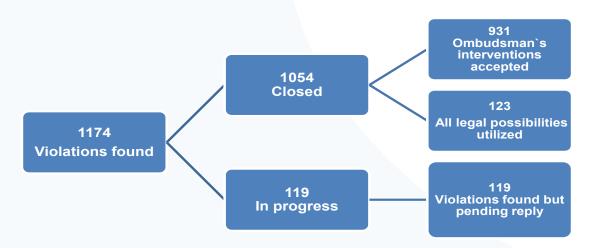


From the total number of 3.651 complaints upon which the Ombudsman initiated the procedure, 2.905 or 79,57% have been completed, while for 746 complaints or in 20,43% of the cases the procedure is ongoing.

This report year as well, the Ombudsman continuously, every three months, submitted information to the Government of the Republic of Macedonia regarding the number and type of requests submitted by the Ombudsman to Government bodies and the bodies within the ministries. This contributed towards the acceleration of certain procedures administered by the Ombudsman, but there were bodies that did not cooperate at all, i.e. they hindered the operation of the Ombudsman. The conclusion remains that a lot of work needs to be done to improve the quality of the cooperation.

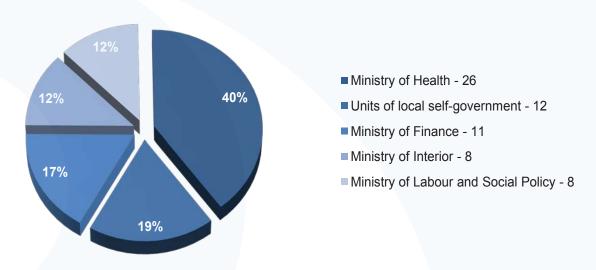
### Identified violations and measures taken

From the total number of cases upon which the Ombudsman took actions, in 1.174 cases violations were determined of human rights and liberties of the citizens. From this number in 931 cases (79,30%) the state administration bodies, other bodies and organizations with public authorities accepted the interventions of the Ombudsman, in 119 cases (10,14%) the procedure is ongoing, while in 123 (10,48%) cases (after identifying a violation and sending a recommendation that was not accepted, other actions were taken in the form of information and special reports) the Ombudsman exhausted all legal possibilities.



The majority of violations found in 2013 were violations of consumer rights – 239 or 20,36%, from which in 214 or 91,63% cases the bodies and organizations with public authorities acted upon the intervention of the Ombudsman. They are followed by complaints about the judiciary system, where 121 violations were stated or in 10,31% of cases, where in 105 or 86,76% of the cases the interventions from the Ombudsman were accepted. The recommendations related with the property-legal relations violations were found in 109 cases or 9,28%, out of which 86 or 79,90% of cases the interventions of the Ombudsman were accepted, then the complaints about pension and disability insurance, etc.

Image no. 5



The bodies that in the majority of cases still have not acted upon the advice, suggestions, recommendation, opinions and other interventions of the Ombudsman are the Ministry of Health, units of local self-government, Ministry of Finance, Ministry of Labour and Social Policy, etc.



# ABOUT THE INSTITUTION

### Organization and manner of operation

The organization of operations of the Ombudsman has been determined in accordance with the Law on Ombudsman and other bylaws of the institution.

The Ombudsman performs the scope of its operation through the organizational units in the headquarters of the institution in Skopje and in the regional offices in: Bitola, Kichevo, Kumanovo, Strumica, Tetovo and Shtip.

### **Staffing**

In the course of 2013 seven new deputies were chosen, from which one in Skopje and six in the regional offices of the institution in Tetovo, Kumanovo, Shtip, Strumica, Kichevo and Bitola.

According to the qualification structure of the employees 58 have higher education, while 19 have secondary education. Out of them 45 are women and 32 are men.

The institution Ombudsman employs: 33 Macedonians, 31 Albanians, 3 Roma, 3 Serbs, 3 Vlachs, 2 Bosnians, and one Turk and one Croat.

The Ombudsman is facing a shortage of human resources. Starting from 2011, 2012 and 2013, on different basis the labour relation was terminated for 8 employees, and the vacant job positions have not been filled. Despite the efforts of the Ombudsman to fully staff the institution, due to the manner of distribution of financial funds, the funds have not been yet approved for filling in the vacant job positions. As a consequence of this, there is the issue of efficiency of the operation of the institution, as well as the disturbance of the principle of appropriate and fair representation.

### **Work assets**

The work assets of the Ombudsman are provided from the budget of the Republic of Macedonia.

In 2013 the planned activities of the Ombudsman, in accordance with the applicable regulations, were implemented with 64,331,970.00 MKD or in percentages 96.36% of the planned funds.

In the budget of the Ombudsman, other than the operational expenses, no funds have been granted for the promotion of human rights and liberties. With this budget, the Ombudsman is facing difficulties for translations and publications of the reports.

The activities for promotion of human rights and the possibilities for their protection in 2013 are accomplished with the financial support from the Technical Assistance and Information Exchange instrument of the European Commission – TAIEX, the embassy of the Kingdom of the Netherlands in the Republic of Macedonia, the Office for democratic institutions and human rights (ODIHR) and the OSCE Mission to Skopje.

The manner of financing the institution remains inadequate compared with its competences and its position within the constitutional and legal order of the Republic of Macedonia. This is especially true since the Ombudsman did not participate in the preparation of the Budget, and the law stipulates that at the session of the Assembly he should explain the requested funds. Right now this is only a formal obligation which essentially bears no importance.

In 2013 funds were provided for the functioning of the National Preventive Mechanism that included the expenses for translation, printing and distribution of the annual report, an obligation arising from the Optional Protocol to the United Nations Convention against torture. In addition, funds were provided for engagement of external associates which ensured a multidisciplinary approach. The need for more human resources in the National Preventive Mechanism still remains.

Sub- items	Description	NP budget 2013	NPM Budget 2013	NP realization 27.12.2013	NPM realization 27.12.2013	remaining		
401	Basic salaries	32.955.000,00		31.946.568,00		1.008.432,0		
402	Contributions for social insurance	12.189.000,00		11.815.862,00		373.138,0		
40	Salaries and supplements	45.144.000,00		43.762.430,00		1.381.570,0		
420	Travel and daily allowances	700.000,0	30.000,0	566.024,0	25.033	138.943,0		
421	Public utility services	5.500.000,0	65.000,0	4.960.123,0	37.966	566.911,0		
423	Materials and tools	900.000,0	10.000,0	867.480,0	9.494	33.026,0		
424	Repair and current maintenance	1.450.000,0		1.391.104,0		58.896,0		
425	Contracted services	11.620.000,0	400.000,0	11.540.721,0	398.526	80.753,0		
426	Other operational expenses	700.000,0	15.000,0	581.430,0	14.051	119.519,0		
42	Good and services	20.870.000,0	520.000,0	19.906.882,0	485.070	998.048,0		
464	Various transfers	130.000,0		83.992,0		46.008,0		
480	Purchase of equipment and machine	100.000,0		93.596,0		6.404,0		
48	Total capital expenditures	100.000,0		93.596,0	0,0	6.404,0		
	Total	66.244.000,0	520.000,0	63.846.900,0	485.070	2.432.030,0		
	Total	66.764	.000,0	64.331.9	64.331.970,0			
	Р	ercentage of bu	dget utilization	6	3,64			

### Republic of Macedonia Ombudsman

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