

ANNUAL REPORT ON THE DEGREE OF PROVISION, RESPECT, ADVANCEMENT AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS 2015

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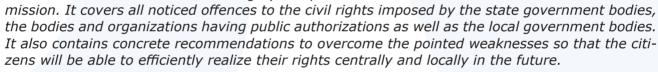
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Greetings to all

During the reporting year, there has been an occurrence of damages suffered by the institutions and legal rights of certain larger civil groups. The illegal tracking of information- tapping, the police brutality towards the protesters, the pressure on the high school students, the migrant crisis, the collection of the radio gram fees outside the legal provisions were merely a part of the act upon which the Ombudsman has acted.

The year was marked by a great number of received complaints ever since the institution was established, a situation pointing towards the problems faced by the citizens in each life segment, but it also indicates the shortcomings of the functioning of the system and bad administration, i.e. the bad functioning of the system which leads to breach of the civil rights.

This report covers not only the statistical indicators on the number of citizens addressing by complaint sub-



The occurrence of a massive breach of one of the fundamental human rights- protection of the right to privacy of the personal and family life with the tapping affair, has put doubt on the functioning of the system which should have been a guarantee for its respect. The case was about an illegal procedure harming the privacy of a large number of citizens due to which the Ombudsman reacted quickly in order to ensure efficient protection but because of the silence and non-cooperativeness of the key bodies, the institution was impaired to do its work.

The protests which took place in May and the police brutality during the apprehension of the protesters was one of the challenges faced by the Ombudsman and has simultaneously confirmed his conclusion for the necessity of system reforms for police control. Namely in this case, as well as in many others, it was proved that the cooperation between the Ministry of Interior- Department for Internal Control and Professional Standards and the Ombudsman is just a formality, and not genuine when it comes to acting upon the police members.

The Ombudsman, because of the protests of the high school students about the external testing system with the final exam, has addressed several times to the competent authorities to start a dialog with the students estimating that that would be the best way to implement the reforms in the educational system- to hear the voice of those affected by the changes.

When it comes to the work of the Ombudsman-the National Preventive Mechanism, what marked the reporting year is the constant monitoring of the state with the immigrants/refugees, their rights in the temporary transit centers as well as in the Foreigners' center in Gazi Baba Skopje where absolutely inhuman conditions for stay were established. In order to exhaustively view the situations, the Ombudsman- National Preventive Mechanism has visited all centers and has made reports for the situations concluded, the reports were submitted to the competent authorities in order to undertake measures to improve the conditions with the purpose of establishing a more human treatment toward the refugees/ immigrants.



During the reporting year, a large number of citizens have addressed to the Ombudsman office regarding the problems with the determined action and collection of the broadcast fee by the public service – Makedonska Radio Televizija- Macedonian Radio Television. The Ombudsman has undertaken all activities and according to the legal provisions, at a press conference, has publicly addressed a criticism for the illegal collection of this fee and demanded an immediate solution of this problem, because the citizens are not responsible to suffer the consequences of the poor operation of the institutions.

The hard social position of the citizens has been confirmed through the numerous complaints submitted due to cancelation of the state benefit, a problem to which the Ombudsman has reacted by submission of numerous information and reports to the competent ministry to help this category of citizens in the realization of their rights.

The case operation shows that instead of decrease there is an increase of the number of complaints of the citizens submitted due to violation of their rights in the judiciary area. In the reporting year there is a concerning occurrence of impairment of the work of the Ombudsman and certain courts, which has not been the case until now. The Executive judiciary remains inefficient and its reforms require further work. The citizens have difficulties to realize their rights as consumers, the property and legal relations, heath care protection, the rights regarding the pension and disability insurance, urbanism and construction.

The recorded breaches of the children's rights keep to alarm and the discrimination is increasingly visible for the citizens. Unfortunately there has not been any improvement neither in the penitentiary – correctional nor in the educational- correctional system in the country regarding their accommodation conditions as well as the staff, a problem which has been determined and advised by the Ombudsman persistently for years.

Idzet Memeti





OMBUDSMAN- NATIONAL INSTITUTION FOR PROTECTION OF THE HUMAN RIGHTS





The national institutions for human rights draw their term of office from, inter alia, the standards established with the so called Parisian principles upon which the active promotion and protection of the human rights and freedoms is founded.

The Ombudsman acts as a National Institution for human rights with B status for four years, due to which it is impossible during a longer term, in which he aside from the protection, would use the promotion, i.e. the education for the human rights, as well as increase the public conciseness on the necessity to respect of the freedoms and rights of the citizens The efforts and directions by the Ombudsman, as well as the explicit recommendation of the relevant international organizations and bodies such as the committee for human rights with the United Nations, the European Commission and others for the need to enhance the capacities regarding the staff and finances, as well as the fulfillment of the Parisian Principles have not been enough to change the status of the institution, more precisely to obtain A status.

During the reporting year the amendments of the Ombudsman Law have not been performed, necessary to achieve pluralism in the selection of the executive staff in the institution. At the same time, the amendments of the Law would lead economic independence and would disable the Government to influence the operation of the National institution for human rights and freedoms through financial control. Due to this the Institution has remained alone in the region regarding these significant reforms which are the main condition to expand its term of office and acquisition of a status.

In order to enhance the capacities of the institution of Ombudsman, a Report was made by a group of experts and was dedicated to issues in the rule of law area connected with the communication tracking, better known as the Priebe Report. Namely the financial independence of this institution and its staff was in the interest focus of this group. In this context, there has been a clear and focused recommendation that it is unconscionable for a National Institution for protection of human rights aiming to raise to a higher level or acquire A status to be financially dependent from the Government and to fail in obtaining the necessary funds guaranteed by law. The need of urgent legal amendments is stressed in this report as well, so that the Ombudsman Law can be entirely aligned with the Parisian Principles.

The Human Rights Committee within the United Nations, has pointed out its concern because the draft amendments on the Ombudsman Law are not entirely aligned with the Parisian principles and that the institution does not have the necessary financial resources to do its term of office properly.

The European Commission through the document entitled as Urgent Reform Priorities, also pointed the need of enhancement of the capacities of the institution of Ombudsman. This document especially stresses the necessity of legal amendments which, as stated, should be fully compatible with the Parisian Principles.

From this we can conclude that it is absolutely unallowable for one National human rights institution to be put in a position to convince the Government for years that the reforms and legal amendments are necessary in order to expand the scope through which the promotion of the human rights as an important segments in the development of the democracy would be performed.



DEGREE OF REALIZATION AND PROTECTION OF THE HUMAN RIGHTS AND FREEDOMS IN SEPARATE AREAS





DURING THE REPORTING YEAR

MASSIVE VIOLATION OF THE RIGHT TO PRIVACY AND FAMILY LIFE

The Ombudsman reacted with great concern to the massive violation of the Constitutional right to privacy and family life of the citizens, after the announcement of the findings on the unauthorized communication following-tapping. This occurrence, according to the Ombudsman is a callous violation of the human rights and freedoms and has put the legal safety of the citizens in doubt.

In this direction, the Ombudsman has opened two procedures (one upon own initiative and other one upon an complaint submitted by a citizen from Skopje) and has addressed to the most called institutions, the Administration for Security and Counter Intelligence within the Ministry of Interior and the Public Prosecution in order to obtain the necessary information and to determine whether or not there is a violation of this right. The flippant and ignorant attitude of both institutions which did not give any answers or formal responses, were deemed as an act of infringement of the work by the Ombudsman and for that he notified the Assembly of the Republic of Macedonia.

It is even more concerning that the Ombudsman still remains in the maze of answers directed form the Ombudsman to the Administration for Security and Counter Intelligence. This relationship between the institutions is harmful for the rule of law and the legal safety of the citizens.

THE PENITENTIARY AND CORRECTIONAL FACILITIES STILL FUNCTION UNDER MINIMAL CONDITIONS

The overcrowding, insufficient healthcare protection and week supply of the institutions with medicaments and poor hygiene and accommodation conditions as well as the low quality diet of the convicts and the detained persons have been determined in most of the penitentiary and correctional facilities thereby violating the rights of the persons deprived of liberty as well as their human dignity. The Ombudsman has submitted a recommendation for improvement of the situation in these facilities, after which the administration for the execution of penitentiary sanctions and the executive officers of the penitentiary and correctional facilities have undertaken measures but have not altered the situation of the prison system.



POLICE BRUTALITY AGAINST THE PROTESTERS

The Ombudsman upon the announcement of the information that at the protests, which have been organized in front of the Government building last May there have been persons detained and has sent a team which visited several police stations. During the visit it has been determined that there is a great number of detained persons who complained about the police brutality during the arrest but did not complain about the treatment in the police stations. The Ombudsman's team during the visits has visually determined injuries on some of the detained persons as well as their improper accommodation.

According to the Ombudsman Law, the Ombudsman has commenced a procedure, upon official duty, for determination of the manner of use of the means of force, i.e. have the human rights and freedoms been respected according to the legal procedure which should be applied during the detention of people.

Customarily, the answer given by the Internal Control and Professional standards Sector has been purely formal and has not reviewed the brutal behavior of the police. This represents yet another proof that the practice of formal and not vital cooperation of this body with the Ombudsman continues.

THE ADMINISTRATIVE JUDITIARY AND ITS (D) EFFECTS

The Administrative judiciary instead of representing an efficient and effective control mechanism, revealing and sanctioning the illegal and irresponsible operation of the public administration, in the practice contributes for an even bigger violation of the civil rights and protection exclusively of the interests of the state.

More precisely, the question about what kind of an instrument for protection of the citizens is this, arises when the cases upon a recorded administrative dispute are not solved for five years.

The reason for such situation is more of a banal one- the exceptionally poor communication for the Administrative court with the competent ministries, the State Commission for Decision Making in an Administrative Procedure and working relation procedure in the second degree and the Higher Administrative Court.

The poor cooperation goes so far that the acts for the cases are not being delivered from one to another body and the complaints of the Administrative to Higher Court after not being forwarded and the procedure for proof providing for the validity of a certain decision lasts for years and the citizens are stuck in a red tape maze and suffer unnecessary harmful consequences.

UNPREPARED FOR THE MIGRANT CRISIS

The competent authorities, despite the public warnings of the Ombudsman have found themselves surprised by the great inflow of refugees/migrants and have shown insufficient humanity during the dealing with the migrant crisis.

The poor cooperation and coordination of the border police with the proper services in the Republic of Greece and the Republic of Serbia has resulted in big problems regarding the acceptance, treatment and the transit of the refugees/ migrants.

We have determined a week system of record keeping and registration, poor adjustment of the facilities for stay especially in winter conditions, lack of electrical power, hot meals and hot water, lack of legal assistance and poorly organized transport of the refugees/migrants.

THE MINORS ENDURING A CORRECTIONAL AND EDUCATIONAL MEASURE REMAIN WITHOUT REGULAR EDUCATION

The Administration for Execution of Sanctions, acting upon the recommendations given by the Ombudsman for proper conditions for accommodation of the minors, has undertaken measures for entire remodeling of the Educational and Penitentiary Facility in Tetovo and Veles and has accommodated the minors in the Prison Ohrid. During the visit of the Prison it has been determined that there have been conditions created regarding the safety and stay, but the efficiency of the resocialization process of these persons remains questionable, among the other, because of the fact that conditions for regular education have not been created for the persons enduring an educational and penitentiary measure, even though it is a legal responsibility and also a necessity according to the domestic regulations and the European standards.

THE PENITENTIARY AND CORRECTIONAL FACILITY- PRISON SKOPJE EMPLOYEES ARE NOT GIVEN A DEPLOYMENT CONFIRMATION

Due to an undisputable omission of the Penitentiary and Correctional Facility- Prison Skopje and the obligation of the employees to receive a confirmation for deployment for work in shifts, the Ombudsman has submitted a recommendation to the executive officer of the prison for violation of the rights of the employees by doing so.

The order for shift schedule, according to the Ombudsman is an internal act and not a document with a specific character, as considered by the Penitentiary and Correctional Facility- Prison Skopje. The Ombudsman has pointed that the order shall regulate the shifts of the employees in the Security Sector and it shall not be considered a classified information and does not have any designation for any type of secrecy (internal, classified, strictly classified or state secret), and the data stated in it do not represent a violation of the right of the employees' personal data protection, according to the prescriptions for personal data protection confirmed by the Administration for personal data protection with its own opinion.

SEEMINGLY EMPLOYED BUT IN FACT WITHOUT A FOUNDED WORKING RELATION AND NO INCOME

The selected candidates upon the announcement of the Public Enterprise Macedonian Forests for employment of 1600 workers have not realized their employment right two years after they have signed the employment contracts. During this period they have not been overtaken or deployed in the state/local government bodies and do not exercise any rights deriving from the working relation upon unemployment basis, because most of them have been erased from the unemployment records.

The Ombudsman finds the explanation from the Ministry for Information Society that the deployment is underway, unacceptable. This situation progressed several years during which period the citizens suffer harmful consequences due to the poorly and partially designed announcements for employment of several persons, i.e. with no previous determination of the real need of the body/ institution for employment/ deployment of the selected candidates.



UPON THE RECOMMENDATION OF THE OMBUDSMAN THE EMIGRATION OF ROMA FAMILIES HAS BEEN STOPPED

The Secretariat of the Foundation of the Decade for Inclusion of the Roma People from Budapest, The Republic of Hungary has asked the Ombudsman to intervene for the protection of the rights of the Roma families who upon the Decision of the Municipality of Kavadarci should have been relocated from their long- term homes in the settlement named as Tenkje Maalo and to be located in containers provided by the Municipality.

The Ombudsman has executed a procedure with analysis of the site itself during which in a conversation with the stakeholders has determined that the dislocation has not been requested by them, but has been performed due to demands and pressure from the other settlers of this place as a result of unacceptance of the Roma people who came from other cities and settled in this neighborhood.

The Ombudsman has submitted a Recommendation to the Major of Municipality of Kavadarci and to the Municipal Council for violation of the housing right of the Roma people with elements of discrimination upon ethnic basis toward members of the Roma people community, residents of Tenekje Maalo in Kavadarci, violation of the provisions of the Housing Law and the standards referring to the respect of the human rights in the housing area pointing out that containers do not represent housing units satisfying the minimal living standards of the stakeholders. In this context, among the other, the Ombudsman has recommended activities for revision of the dislocation procedure of the settlement and the accommodation of the members of the Roma people community in the containers by postponing the complaint of the adopted decision pointing that dislocation of the citizens from one to another place in the Municipality should mandatory be with their consent for the previously supplied new location on the territory of the municipality where the residents of Tenekje Maalo would continue to live in normal conditions and proper housing units with no feeling of discrimination. The Ombudsman has been notified that the procedure for container supply has not started yet and that the Roma people have been forcefully relocated, i.e. the decision of the municipality has not been applied.

UPON THE POINTING OF THE OMBUDSMAN, THE PATIENTS WITH CYSTIC FIBROSIS HAVE BEEN ENTERED IN THE NATIONAL REGISTRY FOR REAR DISEASES

The Association for Cystic Fibrosis has submitted a complaint to the Ombudsman in which it has stated the grievance that the persons with cystic fibrosis, as patients suffering from a rare disease have not been entered in the National Registry for rare diseases and therefore do not have the same treatment and are deprived of the opportunity to use the funds from the annual programme for rare diseases of the Government of the Republic of Macedonia.

The Ombudsman has stressed the need of an equal treatment of all patients suffering of rare diseases and providence of equal care and approach to healthcare services and medicaments, by stressing the respect of the equality principle of the citizens regarding the approach toward the rights of the persons suffering from cystic fibrosis as a rare disease. In that context the Ombudsman has requested of the Ministry of Health and the Rare Diseases Commission, responsible for the determination and diagnosis of the rare diseases to review the possibility to enter them in the National Registry for Rare Diseases. The undertaken actions have resulted in success and the patients suffering from cystic fibrosis have been entered in the National Registry for rare diseases.



PRESSURE AND THREATS AGAINST THE HIGH SCHOOL STUDENTS WHO PROTESTED DUE TO THE INNOVATIONS IN THE STATE EXAM AND THE EXTERNAL TESTING

Following the situation in the educational system and the expression of dissatisfaction of the high school students through protest related with the new concept of the state exam, as well as acting upon the complaint by the students and their parents for protection of the right to education and peaceful expression of dissatisfaction, the Ombudsman has directed an Information to the Ministry of Education recommending consistent respect of the principle for the best interest of the child, the right of free taught and free expression as well as paying of the proper attention of the child's opinion according to the Children's rights convention.

Informing the Ministry on the remarks of the high school students, stated in the submitted complaints regarding the weaknesses in the implementation of the external testing and the concept of the state exam, the Ombudsman has recommended the undertaking of measures for respecting of the right of the students directly affected by the reforms in the education and to freely express their attitudes and thoughts regarding all questions, including the educational process. Also the Ombudsman has asked the Ministry of Education to pay attention to the remarks, attitudes and opinions of the high school students and in a conversation with them to plan solutions which would be commonly accepted, entire and of high quality and would not harm the students.

A POLICE OFFICER HAS PHYSICALLY MOLESTED AN ELEMENTARY SCHOOL STUDENT

Acting upon the complaint submitted by a parent of a student in a Skopje school, stating that his/ her child during its duty in the school, was physically molested by a police officer patrolling in the school area, the Ombudsman aside of the address to the principle of the school has submitted a request to the Internal Control and Professional Standards Sector due to examination of the behavior of the police officer. In the meantime, the Ombudsman has obtained the video recording from the school which undeniably confirmed the molesting of the student, i.e. that the police officer has crossed his authorizations for which the Ombudsman informed the Ministry of Interior by a special report.

The Internal control and Professional Standards Sector has initially stopped the procedure because the parent has withdrawn the report, and after Ombudsman has pointed that the damaged subject is a child and it is in its best interest for the bodies to take over all measures for its proper protection, the Sector has continued the procedure against the police officer and has commenced a procedure for determination of a disciplinary responsibility. The Ombudsman, has submitted a request to the General Public Prosecution for the commencement of a procedure against the police officer for molesting a child during duty.



THE ANNOUNCEMENT FOR SCHOLARSHIP GRANTING FOR ROMA STUDENTS DOES NOT PROVIDE AN EQUAL APPROACH FOR ALL STUDENTS-IT DISCRIMINATES

The Ombudsman upon own initiative has commenced a procedure after the announcement of the Ministry of Education for scholarship granting five categories of Roma students in the public and private schools in the academic 2015/15 because with this Announcement the conditions for scholarship for the fifth category- students with an average grade of 2.00 to 2.99, one of the criteria is for the candidates to be regular students enrolled in the first, second, third or fourth year in the state or private high schools and to have an official residence in the municipality of Shuto Orizari, Prilep, Tetovo and Shtip.

According to the Ombudsman with such envisaged conditions the children who do not reside in the abovementioned municipalities cannot apply neither in the category which envisages a high average grade, nor the category which envisages a lower average grade because they do not reside in Shuto Orizari, Prilep, Tetovo and Shtip. Due to the limitation of the Roma students from other cities in the country who do not reside in the stated municipalities to apply, the Ombudsman has deemed that there are elements of discrimination in the education due to which the Ombudsman has submitted a direction to the Ministry of Education and the Administration for Development and Advancement of the Education of the members of the communities that it is necessary to intervene in the content of the published Announcement i.e. to withdraw it or to supplement it with the opportunity for all Roma students to be able to apply, thus preventing the discrimination.

Accepting the intervention by the Ombudsman, the Administration for development and advancement of the education in the languages of the members of the communities has informed that the direction given by the Ombudsman will be implemented in the academic year of 2015/16, however nothing has been realized.

THE CONDITIONS FOR INCLUSIVE AND HIGH QUALITY PRIMARY EDUCATION FOR THE CHILDREN WITH AUTISTIC SPECTRUM DISORDER HAVE NOT BEEN CREATED

The stated has been confirmed through the research of the Ombudsman implemented in 2015 in 336 elementary schools regarding the right of these children to inclusive education in line with the Law on Primary Education. The research has shown that in 67 schools there are children with autistic spectrum disorder and in only 14 of them the teaching staff working with the children has underwent trainings for work with children with autism. Furthermore, in 15 elementary schools there is no special education teacher to work with the children, in 13 schools the parents hire a special education teacher who they personally pay and in 13 schools there is a special education teacher hired by a parent along with the mobile special education teacher because the school special education teacher is not present every day to work with the children, but covers several schools in the municipality. Having into consideration the significance of the inclusive education for all children, the Ombudsman, among other, has recommended the creation of the basic preconditions in the elementary schools not only for integration of the children with autistic spectrum disorder, but for their efficient inclusion in the regular education and in that direction to undertake measures to provide spatial working conditions for work with children with autism in the schools, employment of the necessary staff and measures for proper adjustment of the curriculum according to the needs of the children with autism.

THE RIGHT TO CONTRIBUTION TO PAY FOR TEMPORARY IMPEDIMENT TO WORK DUE TO PREGNANCY, BIRTH AND MOTHERHOOD HAS BEEN REALIZED AFTER 12 YEARS

The Ombudsman has determined that a person leading a court procedure due to irregular determination of the height of the pay contribution for temporary impediment to work due to pregnancy, birth and motherhood for the period from 06.11.2002 to 02.08.2003, before the Healthcare Insurance Fund has realized this right after a complaint submitted to the Ombudsman, i.e. in 2015.

The submitter was forced to lead several court procedures among which there was one for lack of action of the Healthcare Insurance Fund upon the decision of the Administrative Court from 2011 which ended with adoption of the suit by the Administrative Court, but the Fund did not act accordingly upon the decision from 2013. The complainant has realized the right upon the submitted direction of the Ombudsman, but the conclusion for untimely action and decision making by the Healthcare Insurance Funds upon requests from the citizens to exercise their right for which they indisputably fulfill the legal conditions remains.

HOW MANY YEARS SHOULD PASS FOR LEGAL AMENDMENTS IF THEY ARE REQUESTED BY THE OMBUDSMAN?

The Government of the Republic of Macedonia has not yet acted upon the initiation of the Ombudsman from May 2014 for amendment of the Law on Tax Procedure and the Law on Property Taxes submitted so that the citizens, in the procedures for forceful collection, would not be left without basic means for existence.

Namely, this initiative still remains in the Ministry of Finance where the Government has forwarded it right after its receipt, and the Ombudsman does not have any information whether or not it would be accepted although for its rejection there is no an objectively based reason.

This cannot be differently interpreted, except as an attempt to obscure the operation of the Ombudsman in one of his main functions, to protect the constitutional rights of the citizens from the state bodies and other bodies and organizations having public authorizations.

THE CADASTRE OBSCURES THE OPERATION OF THE OMBUDSMAN

The Cadastre agency for real estate did not execute an efficient and exhaustive investigation for none of the cases for which the Ombudsman has requested actions for analysis and control of the legality of the actions of the Cadastre Center for real estate- Skopje or some other department in the Republic.

This situation refers even to the cases where there has been detection of hints of irregularities in the operation with reckless performance of the tasks and working assignments of the Cadastre officers and great disrespect of the legally prescribed rules of procedure.

In this segment very concerning is the fact that the Cadastre does not respect the decisions of the Constitutional and Higher Administrative Court and does not act in line with their content because for all such cases upon which the Ombudsman has acted, the same confirmations are being persistently issued, as well as the annulled ones or there are other administrative methods with which the cases of the applicants are being achieved and cases upon official duty are being formed.



THE MOTHERS OF A THIRD CHILD REFUND THE CHILD CONTRIBUTION DUE TO OMISSIONS IN THE OPERATION OF THE CENTRE FOR SOCIAL WORK- BUTEL

The Ombudsman in the procedure upon submitted complaints for protection of the children's rights has concluded that due to the partial and wrong determination of the real situation regarding the fulfillment of the legal conditions for recognition of the right to a parent contribution for third child by the Social Work Center Butel, the mothers as holders of the right suffer damages, i.e. are obliged to refund the previously received funds on this basis. For the aforementioned, the Ombudsman has submitted an information to the Minister of Labor and Social Policy, proposing to undertake measures to remove the irregularities in the operation of the Center which with a decision initially recognizes a certain right and therefore after a certain period of time has decided, with another decision, that the mother loses the right, with an explanation that she does not meet the conditions to exercise this right.

The Ombudsman recommended undertaking measures to establish the responsibility of the officials who acted upon these cases as well as measures for continued trainings of the employees in order to legally act and apply the regulation regarding the rights determined in the Law on Social Protection and the Law on Children Protection.

THE ONE-TIME FINANCIAL AID IS MORE OF A RIGHT ON PAPER THEN A REAL POSSIBILITY TO OVERCOME THE SOCIAL RISK OF THE CITIZENS

The Ombudsman has concluded that the citizens to which with a decision by a competent Social Work Center the one time financial aid right is recognized is difficult in practice because there are no funds provided to realize the decisions. For this problem the Social Work Centers explain themselves that they have finished their obligation, i.e. have submitted a decision for recognition of the right and direct to the competition of the Ministry of Labor and Social Policy and their answer is that the decisions have not been realized due to the overstepped limit of the funds for social protection in the municipality.

The Ombudsman for defined violation of the civil rights as users of the right to social protection has submitted a direction to the ministry for Labor and Social Policy and the competent Social Work Center that the social protection, among other, has the function to overcome the main social risks to which the citizen is exposed as well as to decrease the poverty and the social exclusion. In the context of the mentioned and due to the well-founded recognition of the right, the Ombudsman requested measures for urgent realization of the adopted acts and providence of funds for payment of the decisions for the citizens for one time financial aid upon which a part of the citizens within a one year period have exercised the right to one time financial aid.



DENATIONALIZATION- NEVER-ENDING STORY

The institutional battle of the citizens to realize their rights to denationalization lasts for decades, a period during which the Ombudsman has continuously concluded violation of their rights in all degrees of the procedure and by all competent bodies.

Namely, most of the complaints from the property and legal area submitted in 2015 refer to the protection of the rights to denationalization, which has been declaratively stated as a finished process by the Minister of Finance and the Government.

The actions upon the unsolved denationalization cases by the Denationalization Commissions within the Ministry of Finance, are groundlessly being postponed and updated after the Ombudsman properly intervenes upon the separate complaints.

Therefore, in the reporting year there is almost no case for which a new decision has been made, i.e. it has not been solved and for the small number of solved cases a negative decision has been made.

This conclusion of the Ombudsman is that the Ministry of Finance instead of solving the civil cases, postpones the procedure and with that it prevents them to realize their legitimate rights guaranteed to them by the Denationalization Law.

THE MACEDONIAN RADIO TELEVISION HAS FOR YEARS ILLEGALLY DISPOSED WITH THE MONEY FROM THE CITIZENS

The managers of MRT of reasons known only to them for years decline to make a decision by which it shall describe the unfounded recorded debt based on the broadcasting fee, by which the Public Revenue Office would be able to return the citizens their financial means.

However instead of making a sign out and return the money, MRT has additionally provoked an absurd state directing the citizens for these decisions to submit separate complaints through the Public Revenue Office to the Ministry of Finance and has entirely ignored the fact that the dead line for that has passed as well as the fact that they should additionally pay an administrative fee for complaint amounting more than the fee itself, i.e. 250 denars upon decision.

Although for this problem the Ombudsman has informed the managing structures of MRT, the Government and the Assembly by a special report, a decision with such content has not been adopted and there is still no answer why.

This unacceptable situation raises the question whether or not the money illegally collected by MRT are being used to finance the operation of MRT?



HE HAS BEEN TRYING TO CONTACT HIS CHILD UNSUCCESSFULLY FOR THREE YEARS

A parent living in Canada has asked an intervention from the Ombudsman because he unsuccessfully tries to contact (electronically and by phone) with his underage child living with the mother in the Republic of Macedonia for three years. Acting upon the complaint, the Ombudsman has asked the Inter-Municipal Social Work Center Shtip to undertake measures in the best interest of the child due to un-obscured realization of the right to personal relations and contacts with the parent with whom it does not live. The center acting upon the request and direction of the Ombudsman has submitted a notification that it is in no position to regulate the manner and dynamics of the meetings between the father and the child because they have not met in a long time and for the renewal of the contact it is necessary for the father, the mother and the child to be counseled which is impossible because the father lives abroad and the electronic counseling is unknown for the professional team.

Accepting the direction from the Ombudsman, the Center has reported that when the father comes in this country it would undertake the necessary measures according to the child's best interest.

INEFFICIENT RESOCIALIZATION OF THE CHILDREN WITH PROBLEMATIC OR DISTURBED BEHAVIOR

Incented by the frequent complaints on the protection of the children's rights in the Public Facility for Sheltering Children with Educational and Social Problems - Skopje- Public Facility Institute for sheltering and education of children and youngsters "Ranka Milanovikj"- Skopje, as well as the frequent escapes of the children, the Ombudsman during the visits of these institutions has concluded that part of their children have only changed the institution, i.e. have transferred from the institution "25 Maj" to "Ranka Milanovikj". Also, he has determined cases when the child abandons the institution several hours after its arrival and is not returned to the institution, there are children and youngsters directed to the Institute and are not in it for which the competent authorities have been notified but there are no effects from the undertaken measures.

Cases when children and youngsters are being put in an adaptation process in a domestic environment a period during which they are absent from the Institute and school and there is no document that that is allowed by the Court or the Center, depending on who directed them in the Institute.

The stated, among other, confirms the need of quality plans and programs for work with these children, more effective and continuous cooperation between the competent authorities from the public authorities, the Social Work Centers as guardians of these children and the competent court, as well as other, more suitable forms of sheltering of the children exhibiting such problems.

MRTV AND THE PUBLIC REVENUE OFFICE COLLECT THE BROADCAST FEE FROM WHOEVER THEY CAN

As a result from the lack of update of the data in the registry upon official duty, lack of coordination as well as the transference of the responsibility from the Public Revenue Office to MRTV and vice-versa, in many cases the citizen groundlessly and outside all legal prescriptions are obliged to pay the broadcast fee and it is being forcefully collected from them.

This type of non-cooperation between MRTV and the Public Revenue Office leads to absurd situations-the broadcast fee is being charged from all members of a certain family, relocated persons and persons accommodated in sheltering centers, from homeless people, persons who have moved away many years ago even users of social or permanent financial aid, deaf, blind and disabled people.

As a result, there is the flagrant violation of the rights of the citizens who come in a situation to waste time in front of the windows of MRT or the Public Revenue Office, exhausting themselves in the effort to prove they are right.

THE BANKING SERVICES REMAIN THE SAME, BUT THE INCOME IS DIFFERENT

The citizens every day, find themselves in situations to be without basic means for living because with a legal prescription, the banks are not obliged to take care of blocking financial means from a savings deposit, i.e. other type of deposition or from a pay check, pension check, child contribution, scholarships, social protection, disabled people help etc.

Namely, the business banks, not only that in the procedure for forceful collection, according to decisions adopted by the Public Revenue Office, the City of Skopje and the Municipalities, they block and collect the entire amount of financial means, but they also determine the commission for blocking and de-blocking of the accounts, as well as the other costs for the service.

All of the citizens cannot replenish those costs, even if they have groundlessly been collected.

According to the Ombudsman, they must overcome the situation of all banks having different prices for the services related to the forceful collection which can be bigger even from the main debt, because in the end it is a matter of performing tasks which according to their nature are completely equal and there is no objective criterion according to which they should differ from bank to bank.

THE TROUBLES OF THE CITIZENS IN FRONT OF THE WINDOWS OF THE ADMINISTRATION OF THE CITY OF SKOPJE

The city of Skopje does not care at all about the protection of the civil rights, the protection of the human dignity of the citizens and their families, and as a result they needlessly waste their time and patience to prove the obvious mistakes of the city administration and the poor functioning of the system in general.

The recommendations of the Ombudsman to respect the limitations and exemptions from the forceful collection and elimination of other irregularities are not respected at all.

More precisely, almost always as a way of forceful collection they choose blocking of the transaction accounts of the citizens in the bank although due to gaps in the legal regulation, it is undisputable that such actions mostly violate the civil rights and leave the citizens with no basic means for living.

Also, a large number of citizens have been recorded as property tax bondholders even taught they have sold the same property a long time ago.

The civil administration does not respect the procedure for determination of the property tax bondholders and does not respect the rules of the procedure for timely and diligent submission of the decisions and other written correspondence to the stakeholders in the procedure.

The interventions of the Ombudsman have been ignored by the City of Skopje and it continues to work against the legal prescriptions. The cases when the citizens are requested to give a statement that they will not claim back the groundlessly collected money, which has matured for charge yet, are more frequent. By this action the citizens have been brought in a situation to fund in advance the work of the civil administration.



THE PROCEDURE FOR YARD PLACE BUY OUT IS BEING LEAD IN RADOVISH

The huge number of cases of privatization of a construction ground (the yard places buy out) from the Administration for property and legal affairs, instead of being solved in the locally competent area departments, after being kept in a drawer and lack of action to update the procedure, during 2015, the cases have massively been forwarded to the departments throughout the Republic. This is especially characteristic for the municipalities in Skopje.

This procedure opens the dilemma whether or not this is in line with the rules of the administrative procedure regarding the local authority.

Namely, the provisions from, the Law on General Administrative Procedure, imply that the local authority should be determined according to the place where the real estate is and according to the place of residence of the subjects, within the prescriptions for internal organization of the bodies deciding in the administrative procedure.

In addition, the Ombudsman has concluded that this act shall not contribute at all, as the Ministry of Finance claims the efficiently and timely action, but the opposite, that the procedure shall be even more complicated and the subjects will be obliged to pay costs for proof delivery and will totally disable the direct communication.

THE RECKLESS AND IRRESPONSIBLE OPERATION OF THE PUBLIC ENTERPRISE FOR WATER SUPPLY AND DRAINAGE- SKOPJE IS PAID BY THE CITIZENS

The Ombudsman has concluded that many citizens are in debt for spending huge amounts of water (in some cases over 10.000 Euros), allegedly due to faulty or unregistered water gauges and other similar explanations.

Therefore, citizens who cannot be users of the services of the PE Water supply and Drainage because they do not own the facility for which the debt has been recorded or it is simply impossible to spend as much water as the irregular invoice claims, are requested to pay the aforementioned debt.

In addition, covering the omissions and weaknesses in the operation of its services and individuals, and being exclusively in a monopolized position, the Water supply and Drainage has groundlessly caused damage to the users of the services and their legitimate rights and legal interests.

Also, the Public Enterprise does not execute internal control in order to determine and sanction the omissions caused by the reckless and irresponsible performance of the tasks of its employees-the lack of reading of the water gauges and the lack of action upon the requests for change of the service users.

Upon the recommendation and directions of the Ombudsman, given to eliminate such irregularities, are not followed because of the reckless and irresponsible behavior of the competent authorities, the Public Enterprise almost in all cases justified itself only with a statement of the fee collector for the reasons because of which the water gauge has not been read.

PROTECTION OF THE HUMAN RIGHTS IN SEPARATE AREAS

POLICE AUTHORIZATIONS

In 2015 a significant influence on the human rights protection was provoked by the tapping case and the publishing of the taped conversations, the protests in front of the Government of the Republic of Macedonia as well as the migrant crisis, i.e. the inflow of refugees/migrants transiting through the territory of the RM.

The Ombudsman has followed the events and the actions of the police officers and according to his authorizations has intervened because of the massive breach of several rights in the aforementioned cases, especially the protection of privacy, the freedom and secrecy of the communications, the freedom of movement, the use of investigation measures, the right to public protest etc. In addition, there have been interventions to protect the right to asylum of the refugees/migrants, asking the competent authorities to fulfill the obligations deriving from the international agreements for respect of the right to life, creation of stay conditions for the refugees, i.e. migrants, proper treatment and care for these persons.

In the context of the mentioned, during the reporting period a bigger police brutality has been determined, compared to 2014 and one of the more explicit examples is the public protest of the citizens in front of the Government of the Republic of Macedonia in May.

The Ombudsman upon official duty has commenced a procedure for the manner of use of the means of force over the protesters, while several police stations in Skopje were visited and there were conversations with the detained protesters in two police stations who complained on the police brutality as well as on the inappropriate accommodation in the police stations. For this event the Sector for Internal Control and Professional Standards has submitted an answer to the Ombudsman saying that the deprivation of liberty, the apprehension and detainment of the persons is in compliance with the Law on Police and the Law on Criminal Procedure, without giving an opinion for the brutal actions of the members of the police units for quick intervention and maintenance of the public peace and order.

The Ombudsman, via the means of public information has publicly condemned the violence which prevents the right to a peaceful protest of the citizens and limits them to express their revolt or dissatisfaction for certain decisions. For the Ombudsman, the limitation of freedom of movement and public gatherings in front of the Government and other state institutions does not have a well-founded explanation, reminding that the in the Law on Public Gatherings the locations where the public gatherings and protests could be held are clearly stated and in that sense he complained on



the disabling of the citizens to exercise their right guaranteed by the Constitution.

A great concern is imposed by the lack of cooperation of the Ministry of Interior with the Ombudsman in the case of massive following of the communications of a big number of citizens as well as the respect of the presumption of innocence of detained citizens during police actions.

The Ombudsman, having into considerations the findings released in the public for communication following in period between 2011 and 2014, representing a well-founded suspicion for a massive violation of the constitutional and legal rights of a major number of citizens of the Republic of Macedonia, has commenced the procedure upon own initiative for violation of the right to respect the private family life from the Constitution of the Republic of Macedonia and the European Convention for Human Rights protection and protection of the main freedoms. In addition the Ombudsman has acted for protection of the right of privacy and family life, upon a complaint submitted by a journalist due to tapping of her phone communication in 2012.

The Ombudsman, in the context of both procedures has asked the Administration for Security and Counter Intelligence within the Ministry of Interior and the Public Prosecution of the Republic of Macedonia to inform him for the precisely placed questions regarding both procedures. In the same time, from the Public Prosecution, aside of the submission of documents, he asked for a response to several questions regarding the control of the implementation of the special investigation measures, and communication following in the period between 2011 and 2014.

Regarding this case a meeting with the Ombudsman took place in the Ombudsman office when the Public Prosecutor informed the Ombudsman that regarding the complaint of the journalist he will not receive the requested information because they are considered a secret, i.e. that the providence of such information would be considered as direct reveal of measures and activities which in their nature are secret and would bring in question their successful complaint. Although the Ombudsman asked for a legal explanation for this attitude, he did not receive an answer.

The Ombudsman has pointed out that with the lack of submission of the requested information his work is being infringed and the protection of the human rights and freedoms is being disabled, which is his constitutional authority. In the same time, he reminded that the bodies are obliged to cooperate with the Ombudsman and provide all the necessary evidence and information regardless of their confidentiality degree and the Ombudsman is obliged to keep the state and official secret.

Also the Ombudsman from the Administration for Security and Counter Intelligence within the Ministry of Interior requested to be provided with the order, the special report for implementation of the measure of following of the communications and other documents that may serve for determination of the possible violation of the right to privacy of the journalist.

Having into consideration that the requested information have not been submitted, the Ombudsman has addressed to the Minister of Interior and informed the Minister for the lack of cooperation by the Administration asking for the Minister's intervention for the submission of the necessary data. In order to realize his authorizations, the Ombudsman has realized a personal meeting with the current Minister of Interior in the Ombudsman office and stressed the significance to lead the procedure for entire and objective determination of the actual situation, i.e. to be timely provided with the requested information, data and documents.

The Minister of Interior has promised to undertake measures for submission of the asked data so that the Ombudsman could lead the procedure with no obscurations, however the Minister has submitted a Notification implying that only the competent court through a determined and institutional procedure can reach a decision which body, institution, group or individual has breached the law and in that manner committed a violation of the constitutional nd legal rights of the citizens of the Republic of Macedonia, and then the Ombudsman could execute a procedure for protection of their rights.

This answer, i.e. direction for the Ombudsman is unacceptable and is out of the legal regulation of the Republic of Macedonia, which impedes the operation of the Ombudsman, i.e. his main function to protect the constitutional and legal rights of the citizens when they are violated by the bodies of the state administration and other institutions and organizations having public authorizations. Due to that, the Ombudsman has submitted a special report to the Government of the Republic of Macedonia

for infringement of his operation but has not been notified on the undertaken measures regarding the stated cases.

Having into consideration that a long time has passed during which neither the Administration within the Ministry of Interior, nor the Public Prosecution have not submitted evidence, data and information requested by the Ombudsman for the case of massive tapping, the Ombudsman has concluded obscurity of his work imposed by the aforementioned bodies, as well as by the Government of the Republic of Macedonia because of which he informed the Assembly of the Republic of Macedonia by a special report.

Regarding the principle of presumption of innocence, the Ombudsman following the work of the police and action of the police officers has concluded that in many cases of deprivation of liberty, this principle has not been observed and some means of public information have received video and audio inscriptions from the official records of the Internal Affairs Body.

According to the Constitution of the Republic of Macedonia, a person accused for a punishable act shall be considered innocent until proven guilty by an effective court decision. That means that the court should upon official duty observe this basic civil and political right and the police in each case of deprivation of liberty should be careful not to violate this right of the citizen.

The Ombudsman has pointed out that the police should stop being selective in its actions with suspects who through public protests or means of public information want to express their attitude and revolt from the current political situation in the country and in its actions to respect the principles of the Law on Internal Affairs and Political Objectivity, Confidentiality and Professionalism in the operation.

In context of the aforementioned, during the reporting period, the Ombudsman to the competent Public Prosecution has submitted 5 (five) requests to commencement of a procedure for determination of the criminal responsibility against five known and an indefinite number of unknown members of the Ministry of Interior who during the performance of their duty have committed punishable acts against the freedoms and rights of the citizen, i.e. for molesting during duty. The case of the minor student being molested in the premises of an elementary school is characteristic of this, also in the police station Bit Pazar after the father reported the event in this station. The Ombudsman, after examining the case had to personally intervene before the bodies of the Ministry of Interior with concrete propositions for interruption of the misdemeanor procedure against the child for an alleged humiliation of a police officer and for the involved police officers to ask for a disciplinary responsibility by the Ministry itself. Namely the Ombudsman has asked the Sector for Internal Control and Professional standards to implement an internal control for the case, after which the Sector has submitted a written correspondence to the Ombudsman notifying that the parent has given a new state withdrawing the complaint against the police officer with the explanation that he rushed into the submission and his son lied to him.

Because of these reasons the Sector notified that it will not perform further examinations upon the complaint of the parent and the request of the Ombudsman?!

In the meantime, the Ombudsman has implemented an investigation by obtaining a video recording from the school, gathering official documents from the police station and interviewing the involved police officers. The gathered evidence was sufficient to conclude that in this particular event there is a violation of the child's rights in the school, which continued in the police station as well. Upon a new request by the Ombudsman for the implementation of the internal control within the Ministry of Interior, evidence for the event have been submitted, the Sector has acted and notified the Ombudsman that one of the police officers has been disciplinary sanctioned with a financial sanction, while the second one (who submitted the payment order) shall not be deemed responsible considering that the withdrawal of the complaint by the parent is due to pressure by the police officers in the station.

The Ombudsman considers that in the stated case there are enough elements that there has been a criminal act- molesting on duty by both police officers by physically assaulting the child in the school and in the police station they intimidated him and his father by starting a misdemeanor procedure in order to make them withdraw the complaint, there are suspicions that they humiliated





them because of their ethnic origin due to which the Ombudsman has asked the competent Public Prosecutor to start a criminal procedure against the officials, but up until now there has not been any answer from this Prosecution.

From here, once more the conclusion that this body exhibits objective and subjective preference toward the police officers as persons employed in a state body, i.e. there is a lack of a serious intention to discover and sanction the responsible ones even in cases when there are serious suspicions for that, is being confirmed.

After the acting upon the presumptions, it is undeniably determinable that the body for internal control in the Ministry of Interior does not include the victim of the police brutality because is directed toward the protection from the Ombudsman.

Also, the Ombudsman has submitted 3 (three) requests for initiation of a criminal procedure against unknown perpetrators- police officers in the Ministry of Interior escorting detained persons in the Criminal Court in Skopje, having into consideration that it is a matter of members of the special units in the Ministry the identity of which as well as the responsibility may be discovered upon official duty by the stated Prosecutions. One of these requests refers to the violation of the rights of a detained police officer by the body for internal affairs for Kumanovo who in the meantime has been released with a court order because there has not been enough evidence that he participated in the criminal act in the famous event in Kumanovo.

Regarding the acting of the Public Prosecution there is a lack of timely, legal and professional responses from the Public Prosecution in respect of the informing of the Ombudsman upon his requests supported by material and verbal evidence for the existence of well-founded suspicions that the criminal act named torture, inhuman or degrading actions or sanctions- i.e. violation of article 3 from the European Conventions for Human Rights.

A great concern places the occurrence of responses by the Public Prosecution informing the Ombudsman that the reported action (Molesting during duty, article 143 and torture and other type of cruel, inhuman or degrading actions and sanctions, article 142 from the Criminal Code of the Republic of Macedonia, i.e. violation of article 3 from the European Convection for Human Rights) an act of crime shall not be the one prosecuted by official duty. In the same time, the fact that in several actions commenced by the Ombudsman, the Public Prosecution acts selectively given priority to the criminal reports submitted by the Ministry of Interior, places a great deal of concern.

In this context, even though the Public Prosecution disposes with a spectrum of opportunities to determine the police brutality and bad actions of the police in each separate case, the public prosecution is more leaned toward the notifications getting from the body for internal control within the Ministry regarding the examinations of the criminal reports by the Ombudsman.

Although in one case of existence of torture (torture or other type of cruel and inhuman behavior) by 4 (four) police officers against one citizen from Struga, the Ombudsman is not the submitter of the request for determination of their criminal responsibility, upon the submitted complaint of the citizen, the Ombudsman against the police officers has suggested a timely deprivation of the weapon, ammunition until the effectiveness of the decision of the Court of first instance in Struga. Due to the lack of seriousness of the findings in the prosecution act of the Public prosecution for the use of force, intimidation and other unpermitted means with the intention to extort recognition from the person in the premises of the police station, the Ombudsman shall follow the court development of this case furthermore.

The Ombudsman has received several complaints from citizens stating that their constitutional right to home protection has been violated by uniformed and un-uniformed police officers. In both cases the Ombudsman has concluded that the violation of this right by the police officers has occurred due to the lack of records or wrong records in the body for internal affair regarding the address of residence of the sought persons.

The ombudsman has concluded, for both cases, that the violation of the right to home protection has occurred due to a mistake or an omission made by the members of the Ministry of Interior and, through a suggestion, he asked for no more such events in the future.

The situation with the detained foreign citizens in the sheltering center for foreign citizens within





the Ministry of Interior in Skopje has been a problem due to the restriction of the freedoms and rights of the foreign citizens such as refugees/migrants who transit through the territory of the Republic of Macedonia. During 2015 the Ombudsman has performed several regular and irregular visits of the sheltering center for foreign citizens located in the municipality of Gazi Baba- Skopje. The frequency of such visits is because of the groundless detainment of the refugees and migrants transiting through the country for which the Ombudsman has regularly notified the public through his announcements.

The Ombudsman has determined that the only reason for their detainment and deprivation of liberty is the need of their possible testifying in court procedures against citizens of the Republic of Macedonia, which restricts their freedom of movement with no concrete legitimate purpose defined by the Constitution of the Republic and the international law. From the performed examinations in the Center, the Ombudsman has concluded that the detained foreign citizens have been accommodated in premises which do not satisfy the standards of the European Committee for prevention of torture and in that manner, through the verdicts made by the European Court for Human Rights it is considered that the country has violated Article 3 from the European Convention for Human Rights forbidding torture, inhuman or degrading actions or punishments. Due to the restriction of the rights of the detained foreign citizens, opposite to the constitutional and international norms, the Ombudsman has submitted to the Minister of Interior several information for undertaking measures to overcome the defined weaknesses in the operation of the police officers from the body for internal affairs competent for foreign citizens.

The Ombudsman considers the regulation and realization of the control over the manner of operation to be very significant. According to the Law on Internal Affairs, aside to the internal control performed by a special organizational unit for the needs of the Ministry, (Internal control and professional standards sector) an external control performed by the Assembly of the Republic of Macedonia and the Ombudsman has been envisaged. According to Article 64 from this law, the Ombudsman of the Republic of Macedonia shall control the operation of the workers in the Ministry under conditions determined by a separate law. In the precise case it is the Law on the Ombudsman.

In the direction of realization of the envisaged control it is necessary to create good cooperation between the Ministry and the Ombudsman, enabling a real balance in the realization of both types of control and the performance of the operations in the Ministry in the part of police authorizations. All tough the body for internal control, criminal investigations and professional standards due to performance of efficient measures for evaluation of the legitimacy of the actions of the Ministry of Interior employees, this body is not fully independent and discrete in the performance of the asked controls of their work.

According to the Ombudsman, it is necessary to establish a basis, as well as practice for the body for internal control and to notify, upon official duty the Ombudsman aside of the Public Prosecution when there is a case of used firing weapon by the police when such weapon has caused hard damages or heavy bodily injury or death of a citizen. In this manner the Ombudsman would be unable to, upon official duty investigate whether or not there has been a violation of Article 2 from the European convention for human rights, i.e. whether or not on national level the victim has the right to effective remedy before the domestic bodies in line with Article 13 form the convention.

Due to those reasons, the Ombudsman has actively taken part in the working group of the project "Support for the establishment of an external mechanism for control of the operation of the police" by the Council of Europe.

Even though this reporting year was not lacking cooperation with the Sector for Internal Control and Professional Standards regarding the submission of the requested information and evidence by the official records, the conclusion that the answers are purely formal in order to avoid the determination of responsibility of police officers for violation of civil rights and the rights of other subjects addressing to the Ombudsman office, remains.

In the operation of certain cases, the Ombudsman questioned whether or not the misdemeanor bodies within the Ministry of Interior perform their function defined by several legal prescriptions.

The general impression of the Ombudsman is that the commissions for misdemeanors, formed as misdemeanor bodies are the extended hand of the Ministry itself. In that manner the rights of the





citizens are being derogated, namely the rights to use an effective legal remedy and the main rule from the Misdemeanor Law that the misdemeanor procedure may be lead and the misdemeanor sanction may be given only by the competent court.

In the case operation, the Ombudsman has met minor cases for misdemeanor procedure against a young person walking a dog on a public space with no muzzle. In this case, with no concrete complaint by a citizen for endangerment of his/ her safety by the dog, the police officers have put together a payment order. As noticeable is also the case in which the Police station for traffic safety, which aside to the mandatory sanction – money- meaning that it acted as a misdemeanor body, in the further court procedure appeared as an appellant of the court decision representing obvious unfamiliarity with the misdemeanor subject and meddling in the authorizations of the bodies participating in the misdemeanor procedure.

The conclusion that the Law on Misdemeanors Against the public peace and order contains many blurry provisions enabling voluntary complaint of the Law by the police officers who easily decide to apply mandatory sanctions even when there are no conditions for that remains. The Law on misdemeanors, which is a procedural law for all misdemeanors, envisages mandatory sanctioning only if the perpetrator confesses the crime or if the official person (police officer) determines the misdemeanor personally by using proper technical means and devices.

The Ombudsman considers that the Law on misdemeanors against the public peace and order should undergo serious changes mostly for the part for protection of the peace of the citizens and not the protection of the police officers. In this context, the Ombudsman does not see the justification of the misdemeanor "false report" in the internal affairs body, when this matter has been regulated in the Criminal Code of the Republic of Macedonia for the criminal act of "false reporting".

Regarding the use of means of force by the police in cases of reestablishment of the disturbed public order and peace at a large scale, the Ombudsman has saluted the decision of the Ministry of Interior to act toward the amendment of the Law on Police, as well as the submission of the draft Law for opinion to the Ombudsman, but regarding the text, there are serious remarks giving negative opinion.

The Ombudsman has submitted a written opinion to the Minister of Interior that the limitations of the complaint of means of force toward children, obviously sick, old and exhausted persons, disabled people, women with visible pregnancy are worthy of salutation, but in the same time the exclusion of these limitations should be eared. He also concluded that the means for force: electric stungun and rubber bullet, i.e. rubber projectiles should be erased from the text of the draft Law and in the Law on police the medical help for the persons against who the means of force are being applied should be envisaged as well as training for first aid for the Ministry on Interior employees with the sole purpose of use of the means of force to be safe and to stop possible, serious harms of the health and life of the citizens.

Conclusions

- Impediment of the work of the Ombudsman for the case of massive following of the information and obvious violation of the civil rights guaranteed by the Constitution;
- There is a lack of observance of the principle of presumption of innocence in the action of the police with suspects. There is still an opinion held by some police officers that they should sanction other persons while applying their police authorizations;
- The internal control body within the Ministry of Interior does not include the victim of the police brutality and acts subjectively towards the members of the police as subjects employed in the state bodies. This body lacks a serious intention to discover and sanction the responsible police officers in cases where there are serious suspicions for that;
- There is a lack of timely, legitimate and professional responses from the Public Prosecution regarding the informing of the Ombudsman upon his requests for prosecution of the official persons for a criminal act named torture, inhuman or degrading acting of punishment and molesting on duty, by which the Public Prosecution as a sole body for prosecution of perpetrators of criminal acts referring to Articles 2 and 3 from the European convention for Human Rights, i.e. police brutality, is not efficient and there is a lack of proper records for the criminal reports of the Ombudsman;
- The improper detainment of the foreign citizens in the shelter for foreign citizens imposed by the Minister of Interior, their universal right to freedom of movement and other rights have been restricted;
- There is no good balance between the internal and external control of the operation of the Ministry of Interior;
- The Misdemeanor Commissions within the Ministry of Interior are an extended hand of the Ministry itself;
- The complaint of the means of force by members of the Ministry of Interior has not been precisely defined, i.e. as well as the

Recommendations

- The Ministry of Interior should act upon the requests and directions given by the Ombudsman and should not infringe him in the action for the cases of violation of the constitutional and legitimate freedoms and rights of the citizens when they are damaged by acts, actions or their lack;
- In the performance of the police operations, the employees in the Ministry of Interior should work diligently and observe the principle of presumption of innocence and the complaint of means f force should be strictly controlled by the competent authorities in the Ministry;
- There should be entirely independent and objective body for external control of the operation of the police in order to implement efficient investigations against the police;
- The Public Prosecution should efficiently and timely act upon the criminal reports of the Ombudsman, which contain justified suspicions for criminal acts against the human and civil rights i.e. refer to Articles 2 and 3 of the European convention for human rights, as well establish better official records for the criminal reports of the Ombudsman;
- The detainment of the foreign citizens in the sheltering center of the Ministry of Interior should be restricted for time necessary to realize legitimate goal and with daily engagement of the members of the Ministry;
- The internal control over the operation of the Ministry of Interior should be enhanced by straightening of the capacities of the Ombudsman;
- Measures should be undertaken so that the Ministry of Interior would not be able to participate in same time as a submitter of the request for misdemeanor procedure and as a misdemeanor body;
- The Ministry of Interior should harmonize the amendments of the Law on Police in the segment of means of force with the



Conclusions

proposition for amendments of the Law on Police in the segment of the means of force which is not in compliance with the International Standards.

Recommendations

- European standards and to observe diligently the opinion of the Ombudsman;
- The Ministry of Interior should submit the prescriptions or draft laws to the Ombudsman while they are still in preparation and to ask for approval and opinion by the Ombudsman.

CIVIL SITUATIONS AND OTHER INTERNAL AFFAIRS

From the area of the civil situations, again most of the complaints were submitted regarding the regulation of the citizen status and the cooperation of the body competent for citizenship within the Ministry of Interior.

Namely, the Ombudsman has concluded a lack of coordination of the involved citizenship bodies, especially of the Administration for Security and Counter Intelligence which declares fulfilment of the condition whether or not the submission of the supplicant of the citizenship endangers the defense of the Republic of Macedonia as well as lack of complaint of the more convenient legal norms resulting with unnecessary delay of the procedure for citizenship. Based on the direct notions of the Ombudsman, this procedure for some complaints for citizenship may last for years, even decades.

Also the case operation creates the conclusion that in the Republic of Macedonia there is still significant number of sudden foreigners with unsolved citizenship status, even though most of them have been born in the Republic of Macedonia and have effective relations in it (family, property, work etc.). Even though the Law on Citizenship of the Republic of Macedonia has been amended several times up until now in order to align with the international norms and accelerate the procedure upon the legal remedies, it is a general conclusion that the body competent for citizenship does not apply the European Convection for citizenship which entered into force in 2003. According to this Convention, the Republic has undertaken the following responsibilities: to enable the spouses of the Macedonian citizens obtain citizenship, to review the citizenship requests within a reasonable time period, the citizens should be able to possess one more citizenship when that citizenship is acquired by marriage as well as the principles of effective relations of the stakeholder with the country, the permanent residence of the stakeholder in a period of succession of the country and the will of that person.

In order to solve the current situation about the citizenship issue, the Ombudsman in the regular communication with the employees of the body competent for citizenship, has pointed in each case of diligent cooperation and submission of high quality responses. Due to submission of incomplete and non-circumstantial responses, the Ombudsman has submitted two information to the Minister of Interior for the (non) existence of the Civil Department and the Sector for administrative and monitoring affairs upon the Ombudsman's request.

The Ombudsman has intervened several times for quicker resolution of the citizenship status of the foreign citizens married to citizens of the Republic of Macedonia as a beneficiary bases for status determination, considering that a resignation of the permanent citizenship of the foreign citizens or the persons with no established citizenship is not necessary.

Unfortunately, his interventions have not always been accepted by the competent bodies.



In the context of the aforementioned, a sole example in 2015 from this area in which the body has acted upon the recommendation of the Ombudsman is the acting upon a complaint for undetermined citizenship of a newborn child, whose mother in the moment of giving birth is a citizen of the Republic of Macedonia and is recorded in the registry of the City of Skopje. In this case, starting from the Convention for children's rights determining that the child has a right of citizenship since its birth, being endorsed by the Law on Citizenship of the Republic of Macedonia, the Ombudsman has concluded that the Administration for registry keeping within the Ministry of Justice, the inter municipal Social Work Center of the city of Skopje and the Department for Citizenship of the Ministry of Interior during the first two years of the child's life have failed to decide upon the determination of the basic right of the child.

The Ombudsman has submitted a recommendation for determination of citizenship of the underage child from the moment of its birth to the competent body, after which he received and answer that the recommendation has been observed and a decision for determination of the requested status has been adopted.

The possession of public documents for personal identification of the citizen is a precondition for realization of several rights in the legal and political system in their country so that the country would be obliged to perform timely and quality services for its citizens.

The conclusion of the Ombudsman is that there are still no material and staff conditions to meet the obligations of the administrative services of the Ministry of Interior. The stated has been confirmed in both cases where two or more people were recorded to reside on the same address not having any relations. Regarding the stated the Ombudsman has intervened to the competent authorities.

On the other hand, the legal solution for civil obligation of submission of legal documents to the services, of having a livable apartment in possession or with a lease contract, making the registration of his/ her actual permanent or temporary residence. The records kept in the Ministry of Interior for permanent or temporary residences of the citizens may have serious implications for the realization of their voting right. For those reasons, the Ministry of Interior should regularly update these record using proper techniques and means.

At the beginning of 2015 the Ministry of Interior, through the Government of the Republic of Macedonia, has submitted the amendments of the Law on permanent and temporary residence registration and Law on Personal ID card in Assembly procedure to be adopted for which the Ombudsman considers that it would be desirable to give his own opinion directed toward the advancement of the civil rights in these areas prior to their adopting in the Republic of Macedonia Assembly.

In addition, due to respect of the constitutionally guaranteed rights of the communities for free expression of their nationality and in that context the use of the language and letters of the communities, the Ombudsman has commenced a procedure for protection of the rights of the Bosnian community in Macedonia, upon a submitted complaint by several nongovernmental and civil organizations requesting the state institutions to respect their letters and language as Bosnian and not Bosniak language and letters as stated in the by-laws and templates for personal papers issuance in the Ministry of Interior. The Ministry for Interior expressed preparedness to amend the by- laws regulating the issue of the templates and personal documents of the citizens of the Republic of Macedonia if the competent authority in the Republic of Macedonia confirms that the language spoken by Bosniaks should be named as Bosnian and not because the Ombudsman has demanded an opinion from the Embassy of Bosnia and Herzegovina in the Republic of Macedonia.





Conclusions

- In the Republic of Macedonia there are many people with unresolved citizenship status aside from the permanent effective relations established in the country based on marriage/family/property etc.;
- The lack of coordination of the bodies within the Ministry of Interior and the disrespect of the directions and recommendations as well as the obscurity of the operation of the Ombudsman regarding the requests for obtaining a citizenship are the reason for delay of the procedure and violation of the rights for obtaining a citizenship of the Republic of Macedonia;
- The Ministry of Interior performs the services of personal documents issuance late and with bad quality;
- The disharmony of the by- laws in the Ministry of Interior in respect of the name of the language and the letters of the Bosnian people living in Macedonia.

Recommendations

- There should be a proper and diligent complaint of the European Convention for Citizenship by the body competent for citizenship while examining and decision making upon the requests for citizenship within a reasonable time period;
- Measures should be undertaken for bigger coordination of the bodies within the
 Ministry of Interior and improvement of
 the cooperation with the Ombudsman and
 non-impediment of the operation of the
 Ombudsman in line with the control function that he has over the operation of the
 Ministry of Interior;
- Enhancement of the legal framework and the opportunities of the Ministry of Interior to perform the services timely and with high quality since they are in the area of issuance of personal documents to the citizens;
- The by- laws of the Ministry of Interior regarding the name of the languages and the letters of the Bosniak community in the Republic of Macedonia.

JUDICIARY

The functioning of the legal system in wider sense of the word has continued with several weaknesses. The citizens in this reporting period also have difficulties to realize the rights from the area of judiciary, the Public Prosecution and other judiciary bodies. Also, they have expressed dissatisfaction from the reached decisions and suspected their founding and in the objectivity in the acting of the court bodies. A significant number of complaints have been related to the work of the enforcement agents and the performance of the executive procedures by them and a smaller number were submitted for the work of the lawyers in the actions for protection or realization of the rights of the citizens.

The complaints of the citizens due to the long period of duration of the procedures before the Administrative Court, the primary and secondary court and the Public Prosecution is actually a violation of the right to trial in a reasonable time period. Namely, the dissatisfactory situation continues to progress with the court procedures before the Administrative Court. Compared to the previous year certain improvement has been noticed, primarily in the cooperation with the Ombudsman and the timely submission of responses upon his interventions.

In the realization of the right to trial in a reasonable time period before this court again faces problems due to the long duration of which and the fact that this court decides without implemen-



tation of a public enquiry upon the claims against administrative acts of the executive government.

From the case actions it can be indisputably concluded that the actions of the Administrative Court last for several years, often due to incompleteness and untimely submission of the deeds for a case from the bodies of the executive government whose legal act has been disputed and because of the insufficient number of enforcement agents in the archives of the Court, as well as due to the amendment of the Working Programme of the Administrative Court for 2015, with which the cases have been scheduled for work from one council to another.

Having into consideration the explanations of the Court for the reasons of the duration of the long procedures, the Ombudsman has concluded that the communication with the Administrative Court with the administrative bodies whose legal act has been disputed is dissatisfactory, but also the inaction of this Court when the documents have not been submitted by the stated bodies, due to lack of measures undertaken by the Court to resolve this problem.

The insufficient number of enforcement agents or the amendment of the Working programme of the Court according to the Ombudsman should not be a justification for the disrespect of the principle of trials within a reasonable time period, considering that the citizens in all of these cases suffer harmful consequences and their rights are being violated.

In addition, the Ombudsman in order to provide efficient protection of the civil rights and the respect of the principles for trial in a reasonable time period has submitted directions to the Administrative Court to respect this principle and upon the notification from the Court that according to the Judiciary rules of procedure the case is pending and shall be put into circulation in the regular procedure, the Ombudsman has addressed directly to the bodies keeping the documents with a request to submit the documentation for further action to the Administrative Court due to uninterrupted action upon the civil complaints.

The long duration of the procedures of the Public Prosecution before the basic Public Prosecution-Skopje, as well as the lack of submission of the decisions to the citizens after a submitted criminal report, i.e. the lack of written nonfiction addressed to the subject is especially concerning.

The Ombudsman has several times requested, urged and recommended to the Prosecution, with the purpose of efficient protection of the civil rights at the end of June has realized a working meeting with the Basic Public Prosecution- Skopje, at which among other, it was agreed to update the acting and not to impede the operation of the Ombudsman upon the complaints for protection of the civil rights in this body. In the second half of the year the situation has improved and the Ombudsman received responses upon the requests and urges, but the Public Prosecution still continues with the slow adoption of the public prosecution decisions. Due to that a larger number of citizens- complainant has remained dissatisfied by the acting of this body, and because they have not been notified in writing on the decision, while the prosecution called upon the Law on Criminal Procedure, i.e. that it is not obliged to inform the suspects, but only the damaged in the criminal reports.

As a confirmation of the long procedures before this body, stands the case upon which the Ombudsman has acted continuously during 2015, concluding that in 2007 a criminal report for a criminal act- murder has been submitted, upon which the Public Prosecution has formed a case and asked execution of an investigation from Court of first Instance- Skopje 1. During 2011 and in 2013 the prosecution submitted suggestions for supplementation of the investigation and evidence gathering and in March 2015 the case has been returned in the Public Prosecution which after several interventions of the Ombudsman, i.e. 7 years after the submitted criminal report has reached a decision to cancel the prosecution proposing to the investigative judge to stop the investigation against the defendant for this criminal act.

During the reporting period the citizens have submitted complaints and due to a delay of the Civil Court procedures of first instance, especially for protection or realization of property or status rights and interests. A smaller number of complaints have been submitted for criminal acts and a part of them referred to the duration of the detention.

The Ombudsman, this reporting year in the procedures of several court cases, regarding a violation of the principal for trial in a reasonable time period has been impeded to perform his function according to Article 12 from the Law on Ombudsman. More precisely, the impediment has been





imposed by the Supreme Court of the Republic of Macedonia, the Court of First Instance- Skopje 1 and the Court of First Instance Skopje 2. For this situation, the Ombudsman has prepared Special reports to the competent authorities. It is unclear to the Ombudsman why even after the submission of the Special reports the Court of First Instance Skopje 1 still impedes the operation selectively, i.e. the requested information are submitted to the Ombudsman, while for some, opposite to the legal prescriptions it is asked for a copy of the complaint, which is not allowed.

This reporting year, a large number of the civil complaints referred to the dissatisfaction of the Primary Court decisions, while stating that they have been adopted under pressure or from corruptive reasons and the Ombudsman has been requested to change the court decisions, i.e. to exam them, or undertake measures to sanction such action. The Ombudsman for such cases has mentored the citizens in accordance with the legal competence that the right to protection may be realize by complaining to the decision to a higher court or other state bodies and institutions.

From the statistical data from the case work, it can be concluded that the number of civil complaints to delay the court procedures before the secondary courts has been significantly increased. The Court of Appeal in Skopje in several responses has informed about difficulties in the overcoming of the huge amount of cases and in other cases as a reason the use of the judicial holiday is stated as well as the long period needed to prepare the decision. The number of complaints against the tertiary courts is insignificantly decreased compared with the previous year and after the undertaken measures, the Ombudsman has not determined a violation of the civil rights by the actions of this court.

The citizens have submitted complaints for the operation of the Court Council and have expressed dissatisfaction, mainly because of the non-responsiveness upon the submitted complaints and requests. The Ombudsman, aside to the written addresses has realized a work meeting with representatives of the Court Council, and he was informed that the Court Council until the end of May 2015 has been competent to decide upon the complaints of the citizens and with the new law the preparation of formation of a new body- Council for determination of facts and commencement of a procedure for responsibility definition of a judge who should have decided upon the complaints of the citizens is- underway.

The procedures upon these cases are still pending, the Council has not still been formed and there is no competent authority which would decide upon these civil complaints.

Regarding the operation of the lawyers as legal representatives of the citizens against who in several cases there has been a report to the Chamber of Lawyers, upon the undertaken actions, the Ombudsman has determined that the disciplinary bodies of the Chamber of lawyers of the Republic of Macedonia act slowly upon the complaints of the citizens and often turn a blind eye to their requests and the requests of the Ombudsman. A disciplinary procedure was performed in a small number of cases and the lawyer has been financially sanctioned, but that does not contribute to the change of the perception of the citizens for subjectivity and partiality of the Chamber of lawyers toward their colleagues with who they belong.

In addition the Ombudsman has continuously advised the citizens on the manner and mechanisms for protection of their rights, i.e. on the place to address and before which court body they can realize a certain right, the time limits within which they can start a complaint procedure, other actions, legal or irregular remedies for other issues regarding the court protection.

The Ombudsman has actively followed the situation with the respect and realization of the civil rights in the area of the executive procedures in this reporting year as well. From the submitted complaints in this area, it can be concluded that in most of the cases, in the procedures of enforcement, as trustees there are public enterprises, joint stock companies with state venture, physical entities, phone operators etc. requesting collection of the debts made by the citizens for communal, telecommunication, credit and other services as well as for the use of electrical energy, water etc. The debtors in the procedure of enforcement commonly stated that they have not been informed about the debt, called on obsolescence and in some cases they stated that in the enforcement orders there are financial requests which have already been paid. Part of the citizens have complained for the amount envisaged for reward and other costs for the enforcement agent, which should be cov-





ered by them along with the debt and other costs.

The Ombudsman, acting upon the complaints for protection of the rights of the citizens in the executive procedures, has addressed to the enforcement agents to determine the actual situation, requested notification during the enforcement procedure and directed to the respect of the provisions from the Enforcement Law. Also, in the part of the cases, the Ombudsman has requested data from the trustees to determine the grounds of the request for enforcement procedure.

In 2015 continued the practice when citizens- debtors in executive procedures have complained to totally blocked accounts, with no prior notification. Namely, in a large number of cases the complainants have not been informed that an enforcement procedure has been commenced against them and discovered it when trying to withdraw funds from their accounts.

In the cases when the findings for total blocking of the accounts were confirmed, the Ombudsman requested from the enforcement agents to de-block the accounts of the debtors, i.e. to properly apply the provisions from the Law on enforcement procedure regarding the amount which should be kept. In a different case the Ombudsman has advised the citizens to realize an immediate contact with the enforcement agent and to discuss the manner of payment of the request and to leave a proof for their incomes, after which a de- blocking of the accounts would follow.

The Ombudsman during the case operation has established a violation of the civil rights by forceful enforcement procedure of their incomes acquired by social findings, minimum pension, legal support or temporary unemployment which are accepted by the law, as well as cases when the citizens, even though they submitted evidence to the enforcement agents that they use social funding, the enforcement procedure of these funds still continued. The Ombudsman, having into consideration that it is a case of a vulnerable category of citizens being in social risk, has intervened to the enforcement agents by directing them to diligently respect the Law on Enforcement, according to which these funds are being exempt from enforcement. For most of the cases the enforcement agents acted upon the requests of the Ombudsman, i.e. stopped the enforcement process.

Also, the citizens requested protection from the Ombudsman in the cases when the enforcement agents do not respect the legal restrictions, i.e. the enforcement should be executed at most up to 1/3 of the monthly income based on salary, or pension of the debtor and part of the citizens complained that several enforcement agents, in the same time and without any examination have issued enforcement orders with a withholding of 1/3 of the salary or pension towards one debtor. As a result of that instead of withholding of 1/3 of the salary or pension of the debtor, a bigger amount is being withheld, endangering the minimum existence. In such cases the Ombudsman has intervened and requested from the enforcement agents to respect the provisions from the Law on Enforcement, which envisages that the collection of the debt to be performed upon previously determined order of submission of the orders for enforcement. In such cases the enforcement agents almost with no exclusion stopped the procedures upon the orders issued with a later date and put them in standstill position.

There have been cases when the complainants complained of unrealistically determined amount for enforcement, i.e. disproportionality of the height of the main debt with the total amount for collection. In the procedure upon such cases, the Ombudsman has determined that the enforcement agents have acted in line with the reward tariff and other costs for operation of the enforcement agents, but considers that this provision from the Law on enforcement procedure should be submitted to amendments regarding the decrease of the amount for rewards and other costs for the operation of the enforcement agents.



Conclusions

- The long duration of the court procedures and the disrespect of the principle of a trial in a reasonable time period, contribute to the difficult approach to the justice before the courts of all instances, resulting in mistrust of the citizens in the functioning of the judiciary. This reporting year the Ombudsman has been impeded to perform his function in certain cases;
- The Public Prosecution decisions are adopted with a great delay, and very often for no objective reason, opposite to the legal deadlines harming the citizens;
- Nobody acts upon the complaints and grievances of the citizens to the Court Council;
- The citizens wait several years for decisions upon their claims/complaints and the Court does not undertake any measures to improve the cooperation, because of the ineffective communication and cooperation between the Administrative Court, the Higher Administrative Court and the bodies from the executive government;
- The practice for a total blocking of the accounts of citizens and the lack of information that for the debt a court procedure has been commenced and that they have been obliged by an executive decision still continues;
- The forceful enforcement has been performed for the incomes acquired by social funding, minimum pension, legal support or temporary unemployment which is opposite to the Law on enforcement. Also the enforcement agents do not observe the order of implementation of the forceful collection;
- Disproportionality in the amount of the main debt with the amount for collection, including the costs for operation of the enforcement agents.

Recommendations

- Precise measures should be undertaken to observe the principle of trial in a reasonable time period by the courts and the Court Council should undertake activities to avoid impediment of the Ombudsman by the courts;
- The Public Prosecutions should observe the deadlines to undertake activities and adopting decisions and in that direction with the bodies they cooperate;
- The Administrative Court should undertake measures with the bodies from the executive government due to efficient and effective action upon the submissions of the citizens;
- The enforcement agents should not approach toward account blocking with no previous warning and information that the enforcement procedure has been commenced;
- The practice of forceful enforcement of incomes which are exempt from forceful enforcement should stop;
- Changes of the tariff for rewards and other costs for the operation the enforcement agents should be made in order to decrease the amount of the enforcement costs.



RIGHTS OF THE REFUGEES/MIGRANTS

During the last several years, especially in 2015 the Ombudsman has continuously implemented actions for protection of the rights and freedoms of the refugees/ migrants and in the same time as a National Preventive Mechanism has followed the situation, actions and treatment of this category of persons and performed monitoring in order to prevent torture on the locations where their freedom of movement is restricted.

In that sense the activities and actions which the Ombudsman has undertaken have been directed towards the monitoring, i.e. visiting the Shelter center for foreign citizens, the center for asylum seekers and during the second half of 2015 he visited the temporary centers "Vinojug" and "Tabanbovce".

During the several visits of the Shelter center for foreign citizens the Ombudsman has concluded that the foreign citizens have not been provided with the right of a walk, legal assistance, quality and proper food, the right to healthcare protection, and the accommodation of the people has been improper and inhuman. The center has not succeeded to deal with the large number of people who were detained and did not organize their accommodation in accordance with the international standards and the alternative accommodation for women and children are especially lacking. During the visit some grievances have been received that certain persons cannot realize their right to asylum, i.e. do not have approach to the procedure because they have been kept in the Center more than enough under the explanation that they have status of witnesses in the court procedures.

As a result of the determined situation, the Ombudsman has recommended not to restrict the right to asylum of the persons in the Center and that they should be kept in the center in line with the determined legal basis for detention and the procedures in which these subjects have a status of witnesses should be led by observing the rule of the urgency of the procedure.

The Ombudsman has submitted an information to the Minister of Interior about the determined situation in the center and he held a press conference at which he stated his opinion and gave precise recommendations to overcome the negative situations. The Ombudsman has also commenced several separate procedures to determine whether or not there is a legal foundation to keep the foreign citizens in the shelter center and accelerated the procedure for a few persons upon their submitted request for asylum and their relocation in the Center for asylum seekers, where the freedom of movement is not restricted.

On the other hand, from the performed visits it can be concluded that the Center for asylum seekers provides proper conditions for accommodation and treatment of the asylum seekers. It has been determined that the Center for asylum seeker has proper cooperation with several civil associations but is limited regarding the accommodation capacities, and has an insufficient number of employees, a fact that still reflects the Center operation.

During June in 2015 the number of refugees has increased due to the construction of the temporary transit center "Vinojug" on the Macedonian – Greek border and the construction of the temporary transit center "Tabanovce" on the Macedonian- Serbian border. Almost simultaneously the Law Amending the Law on Asylum and Temporary Protection has been adopted with which the registration of the refugees/migrants has commenced and gave them the opportunity to express their intention to request asylum. The law gave the foreign citizens the opportunity to legally stay in the country in a period of 72 hours, after the expiry of which they must submit a request for recognition of the right to asylum and they are obliged to leave the country.

The Ombudsman during his first visits of the transit centers "Vinojug" and "Tabanovce" has discovered poor organization in the management of the centers and improperness of the conditions for short- term stay in the centers.

The Ombudsman has determined that in the Centers basically the main conditions such as water, tents for short stay, hygienic materials and primary healthcare protection have been provided, but that this situation is a result from the activities and engagement of the non-governmental and international organizations and the competent authorities of the country had very little to do with



it. It has been determined that the management with the Shelter Transit Senter "Tabanovce" has significantly improved compared with the Shelter Center "Vinojug"

Also the Ombudsman has determined that there are no established standard procedures for organization of the activities in the acceptance, registration and actions with the migrants in the Shelter Transit Center "Vinojug" and that there is a lack of official persons from the Ministry of Labor and Social Policy. The Ombudsman has reacted to the week record keeping system i.e. the registration of the refugees/ migrants performed solely based on documents issued in the Republic of Greece and improper security control of the luggage and the people. In the same time, the Ombudsman has expressed particular concern for the vulnerable groups, the unaccompanied children, women, people with disabilities and old people and pointed out that if there is no proper detection and protection of these categories of people, they can become subject to human trafficking.

The Ombudsman has determined a problem with the electrical energy supply, inability to warm the facilities where the refugees/migrants have been accommodated and the lack of hot meals and water.

Regarding the transport of refugees/migrants, the Ombudsman has determined that there is no categorization of the ticket prices for railroad transport, that the price is too high and the refugees/migrants who pay 25 Euro for a ticket have been put in an unequal position compared to the Macedonian citizens, which is opposite to the Convention of the Rights of the Refugees from 1951. Due to these conclusions the Ombudsman has directed a recommendation to the Government of the Republic of Macedonia and to the transporting enterprise in which he asked for a decrease of the tickets prices.

The Ombudsman has received information for an occasional inhuman treatment by the police officers toward the refugees/ migrants. Also, a week coordination of the border police services of the Republic of Macedonia and the Republic of Greece has been detected, and thousands of refugees/ migrants arrived on the border crossing point waiting to enter the Center, for several hours out in the open exposed to bad weather conditions. A lack of cooperation between the border police services of the Republic of Macedonia and the Republic of Serbia has been detected as well as lack of coordination of the activities of the managers of the Shelter Centers "Vinojug" and "Tabanovce".

Toward the end of 2015 a nationality selection process of the refugees/ migrants has commenced, and the so called economy migrants returned to the territory of the Republic of Greece right away and were not allowed a procedure for recognition of the right to asylum or temporary residence. The Ombudsman reacted sharply to this decision of the state bodies and in that sense he asked for a nonselective and human approach toward all subjects seeking for international help and protection, i.e. to allow all subjects to commence proper procedure for recognition of the right to asylum or temporary residence in the Republic of Macedonia.

All conclusions deriving from the visits, as well as the recommendations to overcome the negative states, the Ombudsman has presented in a Special Report for the situation of the refugees/ migrants which has been submitted to the Government of the Republic of Macedonia, the competent ministries and bodies and international organizations. Some of the Ombudsman recommendations were accepted by the competent authorities and institutions.

Conclusions

- There is a week record keeping system and unstable security system for control over the refugees/migrants and their luggage. While entering the shelter center "Vinojug" there is a selection process of refugees and economy migrants according to the land of origin after which the persons declared as economy migrants, although they have entered the territory of the Republic of Macedonia, return back with no procedure;
- The cooperation and coordination of the activities of the managers of the Shelter centers "Vinojug" and "Tabaniovce" is not stable and exhaustive coordination of the competent authorities in the Republic of Greece regarding the acceptance, treatment and the transit of the refugees/migrants;
- The acceptance facilities are not adapted for winter conditions, there is a problem with the supply of electricity, hot water shortage, the food is not good, and i.e. hot meals have not been provided. There is lack of human acceptance and care for the vulnerable groups during the stay in the shelter center "Vinojug". The children, women, pregnant women and elderly people and people with disabilities are not provided with assistance while entering and exiting the Republic of Macedonia:
- The transportation of the refugees/ migrants has been poorly organized and they are detained in the Center longer than enough, pay high price for the train tickets and there has not been any categorization of the prices of the tickets for children over the age of 10 and people with disabilities. The refugees and migrants are not enabled to select which transportation they would use to the border crossing point "Tabanovce";
- The legal assistance in the Centers is incomplete and there is a lack of an exhaustive approach in the detection of the accompanied children and their prevention of becoming victims of human trafficking. Also, the Ministry of Labor and Social Policy and the other competent bodies are not enough on site. The domestic and international non- governmental organizations are always on site, but

Recommendations

- Implementation of a new biometric system
 of records and registration and more efficient system for control over the refugees/
 migrants and their luggage. A non-selective, human approach toward all subjects
 asking for international help and protection
 should be provided in order to commence
 a proper procedure for recognition of the
 right to asylum or temporary residence
 in the Republic of Macedonia and if the
 subject refuses, there should be a written
 evidence for that;
- There should be better and more intensive coordination of the managers of the Shelter centers on state and interstate level as well as cooperation between the border police services of the Republic of Greece, Republic of Macedonia and the Republic of Serbia in order to achieve timely, human and full acceptance and transit of the refugees and migrants;
- Measures for providence of human conditions for acceptance of the migrants/ refugees during the winter period, electricity supply to heat the facilities and hot water supply, providence of hot meals and care for the vulnerable groups during the stay in the Centers;
- The refugees/migrants transportation should be organized with no delay and unnecessary wait by respecting their right to select the type of transportation and measures should be undertaken to align the prices of the tickets according to the principle of equality of the citizens. The women and children, pregnant women, elderly people and the people with disabilities should be organized to be transported via legal border crossing points;
- Better organized legal assistance in the Shelter centers, bigger presence of the competent authorities and institutions and providence of constant presence of competent people (social workers, psychologists, pedagogics) who would give proper professional help and protection to the children and vulnerable groups. The cooperation and coordination between the international



Conclusions

- there is a lack of bigger coordination with the competent bodies in order to achieve more efficient protection of the refugees/migrants;
- The accommodation and the treatment of the migrants, especially women and children in the Center for foreign citizens in Gazi Baba is not in accordance with the international standards. Part of these persons cannot exercise their right to asylum i.e. do not have approach to the procedure because they have been unnecessarily detained in the Center as witnesses in court procedures against third parties.
- The asylum seekers in the Center in Vizbegovo have difficulties realizing the rights and the obstacle is the restriction of the center, regarding the accommodation capacities and the number of employees.

Recommendations

- and non- governmental organizations working on the refugees/migrants issue should be straightened;
- The conditions for accommodation of the migrants should be improved and an alternative accommodation for women and children should be provided and their right to asylum should not be restricted. The persons in the Center for foreign citizens should be detained in accordance with the determined time limit and the court procedures in which they appear as witnesses should be led by observance of the urgent procedure principle;
- The possibility for providence of a proper facility and treatment should be reviewed, thus providing better conditions regarding the accommodation capacities and facility equipment. Providence of sufficient staff with proper expertise and capacities in both Centers due to better acceptance and treatment in line with the international standards.

PENITENTIARY AND CORRECTIONAL, AND EDUCATIONAL AND CORRECTIONAL FACILITIES

The Ombudsman as a protector of the rights of the persons sentenced to prison, in custody or enduring an educational and correctional measure, has continuously followed the situation of the people in the penitentiary and correctional and educational and correctional facilities. During 2015 he acted upon complaints submitted by these people as well as upon own initiative to protect the rights of the people deprived of liberty concluding that there are still problems with the accommodation and overcrowding of these facilities. The level of the implementation of the Law on execution of sanctions and by law is dissatisfactory and there is still need of conditions for full respect of the European incarceration rules.

The problem with overcrowding in the penitentiary and correctional facilities as a general problem results in other negative events, such as the improper accommodation conditions, difficult conditions for personal and general hygiene maintenance in the facilities, poor conditions in the sanitary parts etc.

During the reporting period the dissatisfaction of this situation has been expressed by the convicted and detained people through a hunger strike of a short duration and the situation has been continuously followed by the Ombudsman in Skopje and the other six area offices. During the immediate visits in the penitentiary and correctional facilities, the managers were directed to follow the situation of the people on strike and undertake measures to overcome the situation. The competent

institutions basically accepted the recommendations by the Ombudsman, but the improvements were insignificant and temporary and the conditions for the enduring of a prison sentence in these facilities have remained the same.

The Ombudsman has concluded that the healthcare protection system in the penitentiary and correctional facilities is poor and dysfunctional. Namely, the Ombudsman in 2013 has criticized the amendment of the Law on execution of sanctions as an inapplicable provision, according to which the healthcare services of the prisons should be undertaken by the healthcare institutions as part of the public health. However after three years this transformation has not been implemented and the healthcare protection of the convicted people is still out of the system of the primary health organized by the public healthcare institutions.

On the other hand, the dysfunctional system of the healthcare protection in the penitentiary and correctional facilities has been the reason for submission of complaints by a larger number of convicts directing to lack of medication poor conditions in the prison exam rooms and insufficient equipment with the necessary medical devices Also, they asked for protection of their rights due to skin infection occurrence in a few of the convicted people. The Ombudsman directed to the exhaustive protection of the health of the convicted in sense of the provisions from the Law on execution of sanctions and the European incarceration rules, but in spite of the efforts for healthcare protection improvement, it is not on a satisfactory level. Also the manager of the Penitentiary and Correctional Facility "Idrizovo" was sent a recommendation for urgent measures in order to overcome the skin infections through continuous monitoring and control of the hygiene in the accommodation premises and regular providence of hygiene means and clean linens.

Part of the complaints submitted by the convicted referred to conflicts between convicted people which was especially visible in the Penitentiary and Correctional Facility "Idrizovo". The sensitivity of this appearance is especially important form the aspect of the convicted people but for the security of the facility in general. Due to the previous, and especially due to safety issues, some of the convicted asked to be transferred in different wings of the facility and part of them asked to be transferred in another penitentiary and correctional institution. In sense of the aforementioned, the Ombudsman has demanded urgent transfer of the convicted participating in the conflicts in different wings, as well as examination of the possibility to start a procedure for their transfer in different penitentiary and correctional facilities. In the same time the Ombudsman has regularly directed to diligent complaint of the Rulebook on Weapons and the manner of performance of the tasks in the Security Sector of the penitentiary and correctional and educational and correctional facilities. As a result of the given directions by the Ombudsman and the action thereto by the administration of the facility, the conflicts and tense situations between the convicts have decreased to a certain degree, but this problem has not been overcome entirely.

During the reporting period, a small number of complaints were submitted due to torture and unprofessional behavior by employees in the Security Sector, and after the undertaken measures any such violations have not been concluded.

A large portion of the complaints submitted by the convicts referred to the impossibility to use benefits. In these cases the issue was not about the violation of some of their rights, and the Ombudsman is not competent to act upon the benefits. However, there were actions to inform the convicts on the conditions which should be met, the procedure for approval of the benefits use and after direct findings for each of the cases, the submitters have been informed on the reasons due to which they cannot use a benefit.

In this context the Ombudsman had regular and continuous visits and conversations with the convicted people and persons in custody in the penitentiary and correctional facilities and has performed discussions at their request.

The problem with the overcrowding has been also determined in the custody departments of the penitentiary and correctional facilities. The Ombudsman has followed the accommodation conditions and hygiene and the actions of the Facility due to proper healthcare treatment of the detained persons. In this direction, the realization of the rights of the persons directed to endure custody and especially for the protection of the innocence presumption principle was followed.



In context of the stated, the situation of about 30 people in custody has been especially followed, who after the events in May 2015, i.e. after the conflict in Kumanovo have been directed in the prison in Skopje. The Ombudsman has performed several subsequent visits of this Prison to talk with the persons, follow their situation and treatment which has been asked by the relatives of the detained persons. The state councilors of the Ombudsman initially faced difficulties i.e. impossibility to talk to the detained persons, due to which the Ombudsman with a special information familiarized the Minister of Justice after which the creation of the necessary conditions for an uninterrupted meeting with the detained persons followed. In this conversation it was concluded that while bringing into custody in the police station, the taking before a competent judge and transportation in the Prison Skopje to endure custody, they were physically attacked by the members of the special units within the Ministry of Interior. In the immediate findings in the Prison Skopje, in part of the detained persons there have been visible physical damages which were diligently recorded in the healthcare charts by the healthcare service of the Prison. The detained persons with which it was talked complained about the members of the special units in the Ministry of Interior. For a few separate cases the Ombudsman has submitted opinion to the Administration of the Prison Skopje for the need of proper medical treatment of the injured detained persons and their direction to specialist exams in the proper medical facilities upon which the manager of the Prison Skopje has acted and the detained persons have received the needed health care.

Upon the received information from the means of public information that during a transportation of a group of detained persons from the Prison Skopje and Prison Bitola in December 2015 they were physically molested by members of the special units within the Ministry of Interior, the Ombudsman has started a procedure for examination of the case after which ,within its competences, before the Basic Public Prosecution Skopje and the Basic Public Prosecution Bitola and submitted requests for commencement of a procedure for determination of a criminal responsibility against unknown perpetrators- members of the Ministry of Interior.

During the reporting period the Ombudsman has continued to follow the situation of the minors in the Educational and Correctional Facility Tetovo functioning in Veles where as opposed to the previous period, the negative appearances have been put to a minimum according to the number of the submitted complaints. In context of the stated, upon a received information that because of a renovation of the Educational and Correctional Facility Tetovo functioning in Veles, the minors have been placed in the Prison Ohrid until the end of the construction activities, the Ombudsman has examined the Prison and saw the opportunities for uninterrupted realization of the rights of the minors and determined that the relocation of the minors has been ordered by the Ministry of Justice for which proper measures have been undertaken for a safe and successful functioning of the Prison Ohrid during the stay of the minors, but in such facility a regular education has not been set although it has been established as a legal obligation.

Conclusions

- The overcrowding in the penitentiary and correctional facilities remains to be a problem that is especially concerning. There is a lack of material and financial funds especially in the part of the healthcare protection which is under the satisfactory level lacking the necessary medical devices and medicines and in some part of the facilities there is no doctor and the services of the public healthcare institutions are used:
- The situation with the personal and general hygiene maintenance is dissatisfactory.
 There is a lack of the hygienic means and the sanitary installations are faulty and in a small number resulting in skin infections, as demonstrated with the example of the Penitentiary and Correctional Facility Idrizovo;
- The conflict situations between the convicts appearing through subtle forms of molesting, open threats and direct physical attacks are present in the Penitentiary and Correctional Facility and result from the insufficient training of the members of the Security Sector, the treatment toward the convicts, as well as the untimely and improper interventions;
- There are efforts to improve the accommodation conditions for the minors in the Educational and correctional institutions, but nothing is done for the regular education mandatory by the law.

Recommendations

- Urgent measures and actions in order to decrease the overcrowding of the penitentiary and correctional facilities and improvement of the accommodation conditions with diligent respect of the human dignity of the persons in these institutions should be undertaken. Providence of a functional healthcare protection system due to more efficient prevention, as well as measures for healthcare education of the persons in the facility, by total undertaking of the healthcare services under the Ministry of Health;
- Providence of the necessary conditions for personal hygiene maintenance of the convicts through regular supply of the hygiene means and proper clean clothes and linens;
- Proper continuous education of the members of the Security Sector due to bigger professionalism in the actions and establishment of a professional relationship with the convicts with often and regular monitoring by the Sector;
- Urgent measures due to establishment of a regular education for the minors for their efficient resocialization.

SOCIAL SAFETY AND PROTECTION

The social protection as a system of measures, activities and policies for prevention and overcoming of the social risks at which the citizen has been exposed and in this reporting period he has not fully succeeded to enhance the capacities for the citizen's protection. The inter-municipal centers for social work in long procedures have decided upon the complaints of the citizens of social protection rights and the Ministry of Labor and Social Policy has acted upon the submitted complaints more in a formal, that substantial manner due to which the citizens, to protect their right, initiated procedures before the Administrative Court. Acting to protect the rights of the citizens in this area, the Ombudsman and the Centers for social work and the proper services within the Ministry for Labor and Social Policy has made directions and recommendations with no action and measures so that the citizens would be able to realize their rights with no unnecessary obligations to provide documents which the centers may obtain by official duty.





During the reporting period, the number of the complaints submitted by citizens referring to the social protection, while which the complaints for realization of the right to one time debt pardon, the timely decision upon complaints, elimination of the right to financial assistance due to funds obtained by the quick money transfer, the unrealized decisions recognizing certain right to social protection, the lack of action of the primary and secondary body upon the verdicts by the Administrative Court etc.

The citizens, dissatisfied by the decision actions upon the requests for debt pardon have demanded intervention by the Ombudsman due to lack of notification on the outcome of the actions upon their requests and directed to irregular determination of the actual condition by the Commission for action upon the requests for single debt pardon. Upon the intervention by the Ombudsman the applicants have been notified in writing by the competent Commission on the outcome of the procedures upon the submitted requests and in certain cases there were correction in the procedures i.e. they have been positively solved.

Regarding the complaints for untimely decision upon the complaints of the citizens it was concluded that there has been untimely action and decision by the secondary body as well as lack of action upon verdict by the Administrative court. The Ministry of Labor and Social Policy for certain complaints has submitted a short notification to the Ombudsman- "The procedure is underway" due to which there were additional measures and after the performed examination of the operation of the proper department of the Ministry of Labor and Social Policy, the Ombudsman has referred to the obligation that the body has to cooperate with the Ombudsman due to uninterrupted protection of the rights of the citizens. Also during the immediate examinations it has been concluded that upon a part from the cases a civil procedure has been asked for by the Ombudsman the Ministry of Labor and Social Policy has not acted for a longer period in spite of having a full documentation. Upon other cases, there has been lack of action due to incomplete documentation from the competent Social Work Center and there have been cases when completion of the case has not been asked as well as cases not recorded in the archive of the Ministry although the submitters have stated that they have submitted a complaint in the legal period to the secondary body. The Ombudsman, in order to correctly and entirely determine the situation for each complaint by the citizens and update the procedure with the obvious standstill of the decision making of the secondary body upon the complaints of the citizens has continuously submitted directions and informed the Minister of labor and social policy, but still the cases submitted during 2015 have remained unresolved.

Due to amendments of two rule books with which the citizens are denied the right to social funding and permanent funding with the quick money transfer, the Ombudsman has received a large number of complaints disputing the adopted acts and among the other due to the retroactive complaint of the Rulebook. It is about amendments of the Rulebook on the manner of determination of the income situation, the property and property rights of the household, determination of the holder of the right and the necessary documents to realize and use the right to social funding of the Rulebook on the manner of determination of the situation of the income, property and property rights of the household, the determination of the holder of the right and the necessary documentation to realize and use the right to permanent financial assistance, the composition and manner of the operation of the professional commission and the secondary commission the legitimacy of the professional people the manner of record keeping of the issued findings and the format and contents of the template for order issuance, grade and opinion on the inability to work (Official Gazette of the RM number 11/2015), according to which the quick money transfer has went under the category of property from which the user may support him/herself and in that manner has become an obstacle to use the social, i.e. the permanent financial assistance.

The Ombudsman has determined that the Centers for Social work as primary bodies have retroactively denied the right to social financial assistance, i.e. permanent financial assistance to many people who have realized the right in 2014 and the secondary body while acting upon the complaints, aside to the untimely decision has not valued the constitutional guarantee for prohibition of retroactive action of the prescription, eve tough the Ombudsman has timely advised in writing.

Another problem faced by the citizens is the termination of the right to use social financial assistance due to providence of incomplete and incorrect data while submitting the request in the

competent center. This problem is bigger because the user is conditioned to realize the right. This provision contained in the amendments of a certain right to social protection, which according to the Ombudsman is additionally limiting the citizen to realize his/her rights because the Center for Social Matters may submit a claim i.e. in a court procedure to retrieve the funds and to reimburse for the possibly occurred damages.

Regarding these two questions regarding the complaint of the legislation the Ombudsman has submitted opinion and Information to the Minister for Labor and Social Policy recommending the need of reexamination and amendment of the normative. The recommendation has been accepted with the explanation that in the initial amendments of the legislation from this area the directions by the Ombudsman shall be taken into consideration. However it has not altered the situation i.e. the Social Work Centers keep on denying the citizens to realize their right referring to the existing legal regulation, due to which the Ombudsman acting upon his commences has submitted a proposition to recommence a procedure in compliance with the Law, in order to protect the citizens as users of the rights to social protection.

In the context of the above mentioned problems and the practical implementation of the amendments of the legal regulation, a certain citizen was adopted a decision for termination of the right to social assistance and such right as a holder he could not use for a period of 13 months, starting from the month the right to social financial assistance had been counseled.

However, two years after the termination of the right, when the citizen has submitted a new request to the center for social work he was not enabled to realize the right with the explanation that a court procedure is underway. The circumstance that a court procedure has been underway is irrelevant, according to the Ombudsman, the center should have undertaken measures and actions for proper determination of the situation due to which it leads a court procedure upon the decision by which the right to social assistance has been terminated. The Ombudsman has directed that the leading of the procedure for protection of the rights must not be a basis to deny the request by the submitter to realize the right to social protection.

The lack of realization of the decision recognizing a certain right to social assistance, i.e. the lack of payment of the funds, is also noted as a problem faced by the citizens in this reporting year. In certain Centers for social work (Public administration of the Intermunicipal Social Work Center of the City of Skopje – Area unit Karposh and area unit Cair) the citizens faced the problem of untimely entering of the data in the payment system, especially when it was about the right to reimbursement of subvention for spent electricity for several years.

Another problem is the lack of establishment of the primary and secondary body upon the directions given by the Administrative Court when the citizen was dissatisfied by the administrative acts and requested for court protection. It is about cases when during re-deciding upon a case a decision with the same dispositive is being adopted and the dispositive is the same as when the act has been in a court procedure, without detailed explanation of the facts and evidence due to which the citizen does not mean the conditions to realize the right from the social area, i.e. without action upon the directions given by the Court.

Through the case actions the Ombudsman has concluded insufficient information of the citizens by the Centers for social work on the adopted amendments for a certain prescription, as with the cases when requests for social financial assistance have been rejected due to the fact that the user has not been actively looking for a job, i.e. has missed the deadline to timely report in the Agency for Employment, in spite of having a status of an unemployed person many years. In such cases aside to the effort for timely action upon the requests of the citizens to realize their rights, the Ombudsman has complained to the Centers for Social Work and to the Ministry of Labor and Social Policy for the need of a bigger transparency and information of the citizens on the new amendments of the legislation.

Starting form the principles of care and protection and providence of social security of the citizens and the guaranteed right to assistance of the powerless and incapable citizens as well as the principle of social just established as a precondition to the functioning of the social protection system, in context of all cases characteristic in the reporting period, the Ombudsman has, through





submission of directions, recommendations and information, asked the Ministry of Labor and Social Policy to analyze the provisions from the Law on Social Protection covering the problems of the citizens and undertake measures to upgrade them by amendments of the Law.

Conclusions

- The users of the social protection, instead of realizing their rights in 2015 have faced difficulties as persons in social risk;
- The Centers for Social work apply by- law Rulebook retroactively, and denied the right to social/permanent financial assistance to several families and obliged them to return the received financial funds in 2014 as a condition to continue to use the right not caring about the social risk the families are exposed to:
- There is a lack of timely information to the citizens by the Centers for Social Work and the citizens do not know how to approach their rights and instead of opening services for assistance and support, they restrict their rights by adopting unclear and unexplained decisions;
- The Ministry of Labor and Social Policy decides untimely upon the civil complaints and lacks action upon verdicts adopted in the Administrative Court for the benefit of the citizens, and during the adoption of a decision upon an complaint does not evaluate the justification of the complaint for incorrect and incompletely determined situation;
- The amount of the right to single financial assistance annually in the Law on social Protection is being determined for each center separately, depending on the total number of citizens in the area of competence of the center. The Social Work Center exceeded the determined amount due to which the citizens having the right to a single financial assistance cannot obtain the funds for several months even years.

Recommendations

- Amendment of the Law on Social Protection and bylaws from this area in order to eliminate the obstacles so that the citizens would be able to approach their rights as users of social protection by simplification of the procedure for realization of a certain right from the social protection area;
- The employees in the Centers for social work should undergo trainings to familiarize with the legal regulation in this area and to be more efficient implementing the requests of the citizens by observing the legal deadlines for decision making;
- The Ministry of Social Policy should undertake measures for more efficient records keeping upon the receipt of complaints of the citizens and to make quality decisions in the prescribed legal period, as well as to undertake measures to enhance the organization of the capacities of the competent departments due to bigger social security of the citizens;
- The Minister for Labor and Social Policy should propose increase of the funds for the single financial assistance when needed and the government should positively decide in order to provide funds according to the realistic needs of the citizens exposed to social risk.



PENSION AND DISABILITY INSURANCE

The Ombudsman, acting upon the complaints by the citizens to protect the rights from the area of the pension and disability insurance, such as personal, material and nonreversible rights, guaranteed by the Constitution of the Republic of Macedonia and the Law on Pension and disability Insurance, this reporting hear has concluded untimely and inefficient action by the state bodies in the administrative procedures upon request by the citizens.

The complaints of the citizens referred to a violation of the rights to disability, age or family pension, disrespect of the legal deadlines for decision, problems with the right to pension based on the international; and bilateral agreements, as well as regarding the calculation of the pension working period. A smaller number of complaints have referred to unrealized rights to a financial reimbursement for bodily damage, unrealized right to accommodation in a leased pension facility, right to a part time job, right to minimum pension, unpaid severance pay by the employer etc. Also the citizens have submitted complaints due to violation of the rights related to the pension as a subject to enforcement, but the number of such complaints has been significantly decreased this year.

In the cases when the findings of the submitters about unfounded funds detainment were confirmed, the Ombudsman directed the competent body on the obligation of the detention of the legally allowed amount which must not exceed one third of the pension, and the Directions were accepted by the body. In one part of the complaints the Ombudsman has determined that there have been warnings issued or already adopted court decisions, and the Ombudsman has concluded a violation of the rights and the citizens were informed that the body has acted in line with the law.

Upon the complaints based on which the citizens have requested intervention due to problems with the realization of the right to pension based on the international and bilateral agreements, especially regarding the right to proportional pension part or retiring with a working period realized in the ex-Yugoslavia republics, the Ombudsman to the competent fund has submitted direction for continuous cooperation with the foreign competent bodies and contacted the official persons in the foreign competent bodies. These measures proved successful in the realization of the civil rights.

Regarding the complaints for realization of the right to family pension, the Ombudsman has acted upon each single case with a proper address to the competent body, after which part of the submitters have realized their rights and those who could not do so, were informed on the conditions and manners for realization of this right.

A large number of complaints have been submitted regarding the pension working period and the action upon them has shown that the insured people have been brought into a poor condition due to unpaid contributions. Even after the adopted court decisions, based on which the employers are obliged to pay the contributions, and mostly act upon the decisions and pay them, the problem appears due to unpaid interests for late payment of the contributions. This is a reason for the pension working years to be unrecorded in the records of the Fund and on the other hand the insured person cannot realize his/her right. For interrupted realization of the bright of the citizens, the fund should record the paid contributions, regardless of the interest, but that is not practically implemented implying that proper measures should be undertaken toward the employers because of the untimely fulfillment of their obligations and the citizens should not suffer the consequences unable to realize the right.

The complaints for the right to age pension are mostly about the inability to realize this right because there is a lack of proper documents needed for recording the pension period or due to unmet legal conditions for realization of the right to age pension. Part was regarding the mistakes in the calculated amount of the pension basis as well as tardiness in the action of the competent bodies. In context of the stated, the Ombudsman has determined cases of wrong recording of the data in the records, untimely paid contributions as well as untimely submission of data to the Fund for pension and disability insurance by the employees. The Ombudsman, acting upon the civil complaints has directed the Fund to undertake measures envisaged by the Law on collection of the contributions in order to provide realization of the rights of the insured people, after which the Fund has acted in





cases where the legal conditions were met.

The citizens have expressed dissatisfaction due to disrespect of the legal deadlines to realize the rights to pension and disability insurance by the Fund for Pension and Disability Insurance, i.e. the area units of the Fund (Branch offices and rules of Procedure), and from the state Commission for Secondary Decisions in administrative procedure and working relation procedure. According to the Ombudsman, there is need of bigger communication between the bodies due to timely submission of the case upon complaint, and uninterrupted action at a higher instance. Also, the delay of the action upon requests/ complaints of the citizens and the long duration of the procedures before the competent bodies in the area of realization of the right to pension and disability insurance, represents violation of the rights of the citizens, due to which the Ombudsman, has many times undertaken proper measures in writing and through immediate examinations.

The actions upon the directions and interventions given by the Ombudsman before the primary and secondary body, toward speed of the procedures and efficiency in the decision making process are still dissatisfactory and not always the bodies that decide meritory show preparedness for cooperation in order to timely act due to realization of the civil rights in the pension area.

This, as well as the last reporting year, contains a big number of complaints regarding the realization of the right to disability pension. Most commonly the citizens express their dissatisfaction due to the subjectivity in the evaluation of the working ability by the competent commissions. The department for evaluation of the working ability within the Fund for Pension and Disability Insurance, as a body competent for realization of the right to disability pension, is significantly more efficient in the adoption of decisions compared to the previous years, but still the citizens are dissatisfied with the adopted decisions due to which they submit complaints before the secondary body, which on the other hand, delays the procedure. The Ombudsman within his competences, has intervened before the Fund, regarding the real determination of the actual situation and definition of objective findings, so that the citizens with lost working ability would be able to realize their right to disability pension.

During this reporting period there have been complaints by the citizens regarding the legal obligations for control examinations after the realized right to disability pension. Considering the fact that it is about legally determined conditions the Ombudsman does not have the opportunity to intervene.

The Ombudsman has paid the necessary attention to the citizens by giving them answers to the questions from the pension area clarifying the legal provisions and procedures before the competent bodies so that the citizens would inform about the legal regulation, easier realization of the constitutional and legal rights.

Conclusions

- Disrespect of the legal deadlines for realization of the right from the pension and disability insurance area, by the Fund for Pension and Disability Insurance, i.e. the branch offices and the Rules of Procedure as well as by the State Commission for Secondary decisions in administrative procedure and procedure of working relation while deciding upon action by complaints;
- Due to the unpaid commissions for late payment of the contributions, the fund does not record the pension period in the records and the citizen is unable to realize the right as an insured person.

Recommendations

- Measures should be undertaken in order to efficiently decide upon civil requests in the pension area and bigger communication should be established between the bodies due to timely submission of the cases upon complaint and adoption of decisions by observing the legal deadlines;
- The paid contributions for the citizens should be recorded by the Fund, regardless of the Commission and measures should be undertaken toward the employers due to the untimely meeting of the obligations.

HEALTHCARE INSURANCE AND PROTECTION

During the reporting period there has not been determined any improvement of the operation of the bodies deciding upon the requests of the citizens from the healthcare protection area as well as the healthcare insurance, due to which the citizens had difficulties realizing the rights from this area. Untimely actions have been noticed by some of the area services for healthcare insurance as well as lack of notification of the citizens for the progress of the actions upon their requests. Although the number of complaints this year decreased, the problems in the areas where protection was asked for has not changed.

Namely, most of the complaints submitted to the Ombudsman were due to the delay of the procedure upon requests or complaints for rights by the healthcare protection and healthcare insurance. Furthermore, to realize the right to refund of means for performed healthcare services, compensation of means during maternity leave, illness working injury, reckless, incompetent and low quality treatment, the right to hospitalization and the number of complaints for realization of the right to direction to a treatment abroad, has been insignificant.

Acting upon the separate requests by the citizens, the Ombudsman has addressed to the Healthcare Insurance Fund and the Ministry of Health and requested update of the procedures and due to lack of action upon the initial requests submitted by him, he directed information to the immediately higher body and minister of health in order not to interrupt the operation upon the civil complaints.

The Ombudsman through direct findings has determined the manner of action in these bodies, determined the actual situation upon separate cases and demanded from the bodies to decide as shortly bas possible. In that context the Ombudsman has determined cases of inaction upon the requests in the legally envisaged period, before the primary body and in secondary procedure, i.e. cases when the

Ministry of Health has respected the complaint but has not decided upon the second primary procedure as well as when the Ministry of Health has acted upon procedure in Administrative Court. The lack of submission of the documents upon the cases has mostly been defined as an obstacle for the timely action upon complaints of the citizens and the court verdicts, which once again reflected over the citizens because the decisions were almost never submitted within the prescribed deadline.

The citizens and civil associations have demanded intervention by the Ombudsman for improper and unprofessional and low quality treatment i.e. determination and due to a mistake of a healthcare worker (doctor, nurse, anesthesiologist) some of their close relatives have died. The Ombudsman in these cases addressed to the Ministry of Health, the Sate Sanitary Inspectorate and the Medical Chambers with a request to perform, monitoring due to determination of the situation, i.e. whether or not the treatment of the patient/s by the doctors has been performed by observance of the medical protocols and rules. In this context the State Sanitary and Healthcare Inspectorate and the Medical Chamber have shown readiness to cooperate with the Ombudsman and acting upon his interventions have monitored i.e. undertaken measures for examination of the cases and manner of treatment of the patients. None of the cases have confirmed the statements for improper, unprofessional and low quality treatment by the doctors, due to which the complainants have been referred to further protection of the rights before the competent courts.

Also the Ombudsman has acted upon complaints submitted by citizens with rare diseases (cystic fibrosis) who have not been entered in the National Registry for rare diseases and in that manner there is no equal treatment and have been denied the possibility to use means from the annual programme for rear diseases adopted by the Government of the RM. Acting upon the complaint, the Ombudsman has intervened before the Rare Diseases Commission responsible for the determination of the rare diseases diagnoses. Also, he addressed to the Ministry of Health as a competent authority where the National Registry responsible for programme implementation is being lead and updated. In the addresses of the Ombudsman and the realized conversations the need of equal treatment for all patients suffering from rear diseases was especially stressed as well as the providence





of equal approach to healthcare services and medicaments.

The undertaken actions have resulted in success and the patients suffering from cystic fibrosis have been entered in the National Registry for rear diseases and the treatment and the medicaments supply have continued to be provided through the means of the Healthcare Insurance Fund and by the programme for rear diseases managed by the Ministry of Health.

This year the complaints for refunds and approval of funds by the local services of the Fund for performed healthcare services or medicaments supply have decreased and upon the intervention of the Ombudsman the citizens who have used services in healthcare institutions have concluded an agreement with the Healthcare Insurance Fund have realized their rights, i.e. the funds have been refunded to them.

The Ombudsman has acted upon complaints referring to termination of the healthcare insurance for persons who have not been mandatory insured upon any other foundation, due to false data given on the amount of the realized income during the previous year. In the action upon these cases, the Ombudsman, with his addresses to the Healthcare Insurance Fund and the Ministry of Health stressed the need to decide upon the complaints of the submitters to consider the provisions from the Law on Healthcare Insurance envisaging termination of the criminal procedures and liberation of the users of penalty enforcement.

Conclusions

- The citizens are dissatisfied by the manner of treatment in the healthcare institutions, the hospitals and clinics for the given healthcare service by the healthcare workers;
- Due to lack of cooperation between the Ministry of Health and the local services of the Healthcare Insurance Fund, the citizens untimely receive decisions upon their requests and complaints for their rights and healthcare protection;
- The Ministry of Health impedes the citizens in the efficient decision making upon their suits by not submitting the acts for the case to the Administrative Court. Although verdicts in service of the citizens are being reached, in the new reviewing and decision making upon the case, solutions denying the requests are adopted, due to which the citizens are forced to prove the founding of the request for a certain right in long lasting procedures.

Recommendations

- Measures should be undertaken for bigger respect of the citizens as patients and their timely and complete informing on the treatment in the healthcare facilities;
- The Ministry of Health and the Healthcare Insurance Fund should respect the legal deadlines in the procedures upon the requests and complaints of the citizens for efficient realization of the rights from the healthcare area;
- Measures should be undertaken for better organization and cooperation of the services in the Ministry of Health and regional services of the Healthcare Insurance Fund due to untimely submission of the documents regarding the cases and efficient decision making for them.

CHILDREN'S RIGHTS

The main purpose and the substance of all actions for respect of the children's rights is to provide equal rights and freedoms for all children and enabling them to have a dignified life and respect as holders of these rights. Responsibility of each member state which ratified the Convention for Children's Rights, including the RM, is to create and improve the existing conditions for development of the children and their participation in the social, cultural, educational and other activities necessary for their development and wellbeing.

Practically the realization of the children's rights and their respect has not reached the satisfactory level, which is confirmed by the cases of violation of the children's rights within the family, school, and fostering facilities including the rights of the children with disabilities.

Due to that, continuous activities are needed to improve the existing conditions for realization of the children's rights, bigger promotion of the children's rights, and education for recognition of violations by the children themselves, trainings to straighten the conciseness of the adults for the significance of the children's rights and their respect and inclusion while making decisions concerning the children.

Children's rights within the family

During the reporting year, again the biggest number of complaints refers to the lack of realization or difficult realization of the personal relations right and immediate contacts between a parent and their child or its relatives, often due to dissatisfaction of the operation of the Social Work Center, i.e. the decisions regarding the right of the child to see them.

The Ombudsman pointed the that the Social Work Centers should have the child's best interest at heart and listen to its opinion and adopt a decision providing uninterrupted realization of this right quaranteed by the Convention and the Law on Family.

This attitude has been held by the Ombudsman even in cases in which one or both parents have been sentenced to prison, pointing that the right of personal relation maintenance and immediate contacts of the children with its parent/s may be restricted only if that is opposed to the child's best interests.

The Ombudsman has determined that this right of the child has been made more difficult to realize not only when the parents live in the RM, but also when one of them with the child/children moves abroad. Following the manner of action and the undertaken measures by the competent centers in the RM, the Ombudsman in several cases has determined that the decisions adopted by the Social Work Center for personal relations and immediate contacts is not practically realized. Namely, the parent leaves the country with the child without consent from the Center or the other parent and the Center cannot implement its own decisions, thus terminating the contact between the child and the parent living separately from the child harming the child and its right to be with both parents.

In such cases, the Ombudsman pointed that measures should be undertaken against the parent, i.e. the center should submit a criminal report for existence of founded suspicion for a committed crime "Abduction of a minor" and the parent was advised to start a procedure before the competent authorities due to realization of the right to see the child, according to the Hague Convention for civil and legal aspects of the international abduction of children, considering that it is about children- citizens of the RM.

As a problem, the issuance of travel documents for the child when one parent is opposed, has been noted, i.e. he/she does not give consent for issuance of travel documents for the child, which by the Center caring for the rights of the children gives consent upon the request.

The Ombudsman has determined, in several cases that the parent notifies the Center and the Ministry of Interior stating the reason for the opposition of the travel documents issuance, i.e.



the suspicion that the travel documents would be misused and the child would be taken out of the country. The Center, all tough bonds the parent to notify it for each travel of the child abroad, is not notified, due to which the dissatisfaction of the other parent changes into suspicion in the objectivity and expertise of the actions of the body.

In cases when the parent suspects the professionalism of the team acting upon a particular request according to the Law on Family, the Ombudsman has asked the Institution for Social Activities to monitor the professional operation of the team and determine whether or not the undertaken measures are in the best interest of the child or the parent. Also, the competent centers in the country have been directed to undertake measures due to direction of the parents to a proper treatment and professional help in proper institutions and the child/ children should be treated toward overcoming of the traumas and possible resistance toward contacts and visits with the parent with who it does not live.

Also, positive changes have been noted, regarding the relations between spouses, regular relationships have been established on relation child parent, with which the visits have been realized either under supervision of the Social Work Centers and\or independently on a location determined by the Center. More efficient acting in the Social Work Centers has been concluded as well as improved communication between the Social Work Centers regarding the requests submitted by the parents to adopt a decision to regulate the manner and dynamics to realize the personal relations and contacts with the child/children, when the parent does not live in the same city, i.e. place.

In general, judging from the actions upon this right of the children, the Ombudsman has determined that often there is no visit or it is realized with difficulties due to the relationship that the parents have, i.e. lack of action upon the decisions of the Social Work Centers and untimely reaction and inaction by the competent centers toward the parent obstructing the implementation of the decision, damaging the child and negatively influencing its development.

According to the Ombudsman, the inter-municipal Social Work Centers should be more efficient in the monitoring of the situation with families at risk. They should follow the effects of the undertaken activities and point the weaknesses and omissions of the parents regarding the raising of the child and to undertake legal measures in cases when the parents intentionally avoid their responsibilities.

Following each case individually, the Social Work Center may follow the development of the events and the situation of the family being at risk, creating conditions as a competent body to timely react and prevent bigger disruptions in the marital or extramarital unit and the possible negative results, neglecting or abuse of the child in the family.

Domestic and other types of violence against and among children

Complaints for protection of the children against domestic and other types of violence, including sexual abuse of children have been submitted by parents of children during termination of the marriage or when the children have been given to one of the parents to take care of the child.

In most of their cases, the domestic violence has been reported by the victims themselves, i.e. the mothers of the children pointing that the perpetrators of the violent acts have been their marital/extramarital partners with who they live or do not anymore and in one case the father complained about the violence against the child by his partner- his ex-wife.

The Ombudsman acting upon the stated complaints has addressed to the competent Intermunicipal Social Work Center, the police bodies or the healthcare institutions due to examination of the findings of violence pointing that measures should be undertaken for protection of the victims against domestic violence, considering the best interest of the child for a correct growth and development.

In case when domestic violence has been confirmed by the Social Work Centers, they undertook measures to accommodate the victim/s in a Center for children who are victims of domestic violence, healthcare protection measures and proper psycho-social intervention and treatment and





suggestions for temporary measures for protection against domestic violence toward the perpetrators are submitted to the competent court.

The Ombudsman, in no case upon he acted, has been notified that a temporary measure has been requested or given such as removal of the perpetrator from the home and restraining order, i.e. the victim has left the home and was accommodated in the Center for domestic violence victims.

Also, even tough by a decision given by the Government of the Republic of Macedonia from 28.04.2015 a National Coordination Body against domestic violence has been created, it did not function aside from the adoption of the Rules of Procedure.

Upon several complaints requesting legal advice for protection against domestic violence, the Ombudsman has advised the submitters on the type of action, for which he prepared written notifications and demanded additional explanation of certain events due to protection, but the submitters have not called or explained the complaints. Therefore, the recommendation for the need of bigger information and encouragement of the victims for a full lead of the procedures for protection against domestic violence, even more if it is considered that the children are the direct or indirect victims of the domestic violence and due to their age and maturity they fear of reporting these events to the competent bodies.

Aside from the protection against domestic violence, the Ombudsman has acted to protect the children from bodily and psychological molesting in the schools by the teaching staff, protection against violence by a police officer as well as protection against sexual molesting and upsetting and improper behavior of a professor toward a female student in one high school in Stip.

The Ombudsman, upon received information by the public information media, that during class a teacher has physically attacked a student in the elementary school in Sveti Nikole, upon own initiation has started a procedure and requested measures by the principle, the Internal Affairs Sector in Stip and directed a request to the State Education Inspectorate due to inspection of the elementary school. Also, he pointed the need of urgent action, considering the graveness of the case, as well as measures for protection of the student and measures against the teacher if the findings of the physical molesting are confirmed. After examination of the case, the Ombudsman has been notified that the teacher has been sanctioned with a disciplinary measure as well as a financial one amounting 15% form his salary during 5 month period, i.e. until the expiry of the definite period employment contract. Also he has been obliged to pay a 600 euro fine in denar counter value according to the Law on misdemeanors against public peace and order and the child's parents after providing the necessary documents (doctor's certificate) have been adviced to file a criminal report against the teacher for a bodily harm.

The Ombudsman in this, as well as in other cases although the findings for physical molesting have been confirmed, has advised the principles to undertake proper measures to protect the children against all forms of physical and psychological molesting and to implement discipline in the school by respecting the dignity of the children, as well as the responsibility to care about the compliance of the educational staff working with the children.

In another case the Ombudsman has determined physical molesting of a student in an elementary school in Skopje by a member of the Ministry of Interior after which the procedure has been stopped after the report made by the parent to the Internal Control and Professional standards Sector, in spite of being a case of children's rights violation.

Namely the Internal Control and Professional Standards Sector instead of fully implement a procedure and determine the actual situation regarding the behavior of the police officer, reported for physical molesting of a child in elementary school, referring to the statement by the parent resigning form the report, notified the Ombudsman that shall not perform further examinations upon the stated findings in the complaint. Due to that the Ombudsman submitted an Initiative to the Minister of Interior for commencement of a disciplinary procedure against an official person as well as a copy from the provided documentation for the case, among which CD from the video surveillance of the school, by advising the Ministry and its organizational units to timely examine the cases and cooperate with the Ombudsman as a control mechanism for the purpose of efficient protection of the rights and freedoms of the citizens. The Internal Control and Professional standards Sector act-





ing upon this Initiative, has reopened the case and provided the entire official material regarding the event after which it confirmed the findings in the initiative and the request of the Ombudsman regarding the police officers. Also it accepted the advices by the Ombudsman for the urgency of a further progress of the procedure, considering that the victim is a child, submitted a notification to the Primary Public Prosecution Skopje referring to request of the Ombudsman to determine the criminal responsibility of the police officers regarding the case.

The case of anonymous report of sexual harassment of a female student and improper behavior by a professor in Stip is equally concerning. The Ombudsman after the undertake of the measures toward the management and the professional service of the school and the confirmation of such case has been reported in the school, has concluded that all measures to clear the case have not been undertaken and the parents of the student have not been informed on the findings.

The principle and the professional service, concerned about the school's rating did not undertake the needed measures and upon our request contacted the parent of the child and informed them on the events and conducted a survey among the students which confirmed the improper behavior of the teacher.

Due to that the Ombudsman has asked the Ministry of Interior and the state Education Inspectorate to fully examine the case and act according to the competences if the findings in the anonymous report are confirmed.

The state Education Inspectorate has stopped the procedure, explaining that violations according the competences of the Education Inspectorate have not been detected, while the Ministry of Interior, the Sector for Internal Affairs – provided full examination of the findings in the Request given by the Ombudsman, as well as the completion and documentation of the base has submitted a criminal report to the Primary Public Prosecution Stip against the professor for a committed crime called "Sexual harassment of a student by abusing one's position" and the principle of the school and the state Education Inspectorate for a committed crime "Hiding a crime or a perpetrator".

A complaint for abuse and physical molesting has been submitted for a child residing in the Boarding school in Kriva Palanka by the mother before the competent authorities in the school. Due to the negation of the findings in the complaint by the principle and considering that it is about a child and because the mother has stated serious accuses for molesting of the student by other children, physical violence and suspicion of drug abuse in the complaint, she reported it in the police station, the Ombudsman has notified the Ministry of Interior on the case. After the undertaken measures for examination of the report of the mother and according to the request of the Ombudsman, the sector for internal affairs Kumanovo has submitted criminal reports to the Primary Public Prosecution against two children accommodated in the boarding school due to founded suspicion that they have committed a crime "Violence" and submitted criminal reports against the principle and the teacher in the school due to suspicion for a committed crime "Reckless conduction on duty".

Rights of the children who are members of vulnerable and marginalized grups

The Ombudsman has followed the realization of the rights of the children at risk, members to a vulnerable and marginalized category and to that end aside of the action upon complaint for protection of the rights of these children, the Ombudsman has performed examinations, i.e. visits of the Daycare centers for children and the Public institutions accommodating children at risk.

Acting upon complaint submitted by a parent deprived of the parenting right for protection of the right of two children in the Public Institution for accommodation of children with educational and social problems "25 Maj" Skopje and the Public Institution for children with disrupted behavior "Ranka Milanovikj" Skopje, the Ombudsman has determined that these institutions have not succeeded to entirely help the children to improve their behavior and development. The Ombudsman has visited the institutions in order to review the capacities and conditions of the situation and effects of the work with children with disrupted behavior in general.





During the visit he concluded that the children in the institutions spend more time outdoors then in the places for accommodation, they often run away and the competent persons cannot meet the planned goals with the individual plans and programs for work. Although the competent persons from these institutions have notified the competent Social Work Center that the children are not adapted to the institutional way of life, i.e. there are no proper conditions for stay and treatment in the facility, the Center continues to prepare solutions for accommodation of the children running away and are on the streets.

Regarding the operation of the body as a guardian of the children, the Ombudsman has determined insufficient engagement and dedication, rare visits of the children in the Institutions and in the particular case more than a year. Eve tough familiarized with the problem, the Center has not undertaken measures for changes in interest of the child, including the change of the sheltering form.

The Ombudsman has concluded that part of the children have only changed the sheltering facility i.e. instead of improving the behavior or their possible return to the family, the children from "25 Maj" have been referred to "Ranka Milanovikj" due to disturbed behavior. In the same time, the Ombudsman has determined a case when only a few hours after their arrival in the facility the children leave and never return, cases of children and youngsters referred in a Facility are out of it, based on extramarital living, family (underage mothers). Then in case when a parent does not let the child return to the Facility as well as a few cases when the children/youngsters are being let to adjust to a home environment, and during that period while being out of the facility they do not attend school and there is not proper document that this has been allowed by the Court or the Center, depending which refried them in the facility. The conclusion that the children/youngsters we meet on our visit in the Educational and correctional facilities Tetovo, Veles have previously been there is very concerning.

The stated conclusions have been presented by the Ombudsman at a workshop on the situation and challenges of the children and youngsters with educational and social problems and disturbed behavior residing in facilities. The presentation was held before the representatives from the competent bodies and institutions and the Ombudsman recommended urgent measures and activities to overcome the situation for realization of the rights of the children residing in facilities of any kind.

In the precise case, the Ombudsman after long intervention and advice to overcome the problem with the improper form of sheltering i.e. accommodation of the children in a facility, except the Social Work Center and the Institution in his intervention the Ombudsman included the Ministry of Labor and Social Policy and the Institute for Social Activities after which the manner of sheltering has changed from institutional to extra- institutional form in the interest of the children.

Also the Ombudsman through the Department for Protection of the Rights of the Children and People with disabilities has performed a visit of the daycare centers determining that there is insufficient staff to work with these children and the children are again on the streets begging or doing other activities. Also he concluded that the lack of registration of the newborn children causes inability to enroll them in elementary school and the undertaken measures and activities are not enough to straighten the parenting potentials and opportunities for improvement of the material situation of the family due to termination of the begging as a way of existence for the family.

According to the Ombudsman, the state is obliged to provide conditions for protection and help of the children, because the protection of the children should be realized by providence of a living standard level suitable for the mental, physical, emotional, moral and social development. There is need of creation of basic conditions for realization of the main human and special children's rights in compliance with the Children's Rights convention.



Right to a financial income (for a child)

According to the Law on Protection of children, certain rights are being provided as well as means and forms of protection of the children where the children's' rights consist of financial incomes are personal rights and cannot be transferred. In this context, for financial incomes shall be considered all incomes based on a child support, special support, single financial assistance for a newborn baby, child support for the parent and participation.

A significant number of complaints have been submitted by women- mothers pointing the violation of the right to financial income for their child. Acting upon the complaints, the Ombudsman has concluded that the mothers, especially hard realize the right to child support for third child. Namely upon a submitted request, the Social Work Centers do not adopt a solution for realization of child support for third child in the legally envisaged deadline due to which the Ombudsman has submitted a recommendation for solution adoption, after which the submitters have realized this right. However the problem has not been entirely solved because the mothers have faced the problem of irregular, i.e. late payment of the child support for third child, especially for the local units in Karposh, Cair and Butel.

The Ombudsman has submitted a Special Information to the Ministry of Labor and Social Policy about the problem with the irregular and late payment of the funds for child support for a third child pointing that measures must be undertaken to speed up the procedure for payment of the child support for third child and uninterrupted realization of this right. After this the mother who submitted a complaint for protection of the right has been paid the child support for third child.

In a few cases, the Ombudsman has concluded that by the Social Work Center a solution is initially adopted which recognizes the mother's right to child support for a third child, then another Solution after a certain time period is adopted terminating this right due to failure to fulfill the conditions.

According to the Ombudsman, such action indicate the inefficient operation of the Social Work Center and unserious approach to the responsibilities of the official person who should fully and properly determine the situation regarding the fulfillment of the legal conditions and the users of this right should not suffer the consequences by adoption of a negative decision upon the request. The Ombudsman has advised the citizens to continue with the procedure by complaining to the Ministry of Labor and Social Policy, and after the direction provided the Ministry has undertaken all measures within its competence enabling the citizens to continue the procedure to realize their right.

The number of submitted complaints for violation of a special child support indicating that better information is needed so that the citizens would know the manners and possibilities to request such protection. Regarding the amount of the social child support, the Ombudsman has asked the Ministry of Labor and Social Policy to review the possibility to increase the amount of this funding, upon an complaint by a parent of two children with disabilities and has been informed that the possibility to increase the amount for all parents of children with disabilities will be analyzed.

Healthcare protection of the children

During the reporting year the number of complaints from parents from several cities in Macedonia has increased significantly. The complaints have been submitted separately or jointly being against the vaccines for their children asking to protect the rights of their children due to impediment of their enrolment in the kinder gardens i.e. elementary schools stating they are required to show a confirmation for regular immunization.

Acting upon the complaints, the Ombudsman has organized a meeting with representatives from the Ministry of Health and the parents- submitters of the complaints at which the pro and counter arguments were stated regarding the need to vaccine the children. Also, he submitted an



advice to the Ministry of Labor and Social Policy and the Ministry of Health to undertake measures to respect the children's rights about the separate cases of rejection to enroll a child in a kinder garden.

The Ombudsman, considering the mistrust and fear of the parents regarding the quality of the vaccines for children, demanded serious review of the arguments of the parents who are against their child to be vaccinated, especially the possible justification of those arguments. Also he has pointed the need of measures and actions for bigger information of the citizens on issues related to the vaccines their composition and quality. He demanded notification for the parents prior to each vaccine containing the possible expected reactions or side effects by the podiatrists in the proper healthcare institutions, as well as measures undertaken for harmonization of the legal regulative, because the Law on Protection of the Population from Contagious Diseases and the Law on Elementary Education the vaccines have been defined as mandatory and with the Law on Protection of the Children, according to which the parents are obliged to submit a confirmation for the health state of the child, i.e. finding and Opinion given by the proper professional institution for a child with disabilities and not confirmation for a received vaccine.

The Ministry of Health has accepted the advice of the Ombudsman and submitted a notification to the healthcare institutions stating that the competent medical staff should explain the vaccine type of the parents and against which contagious disease shall protect, information on the producer as well as explanation on the possible side effects and dangers to which the child is exposed if not vaccinated.

The Ombudsman, due to determination of the situation with the enrollment in the kinder gardens has performed examination and an informative conversation with several kinder gardens in Skopje and has contacted part of the kinder gardens in Macedonia by telephone, and determined that the Kinder Garden has not rejected a child for admission who has not received a vaccine or an immunization confirmation has not been submitted.

Because one Kinder Garden in Skopje has published Information notifying the parents that they are obliged to submit a confirmation for the vaccine status of the child or it will not enroll in the Kinder Garden on its web page, the Ombudsman has made an examination of the Kinder Garden, but there was no such announcement. The Ombudsman pointed to the principle to take the Information from the web page because there is no legal base for such conditions and it is considered a violation of the children's rights for the children who have not been vaccine. After the advice, measures were immediately undertaken and the Information has been taken down from the web page of the Kinder Garden.

Regarding this question, the Ombudsman has acted upon complaints for which criminal reports have been submitted by a group of parents to the Primary Public Prosecution against unknown perpetrator/s responsible parties from the Ministry of Health, due to existence of suspicion for a committed crime- Production and circulation of harmful medications for treatment- the vaccine called Diftekok and the vaccine BCG VACCINE, FREEZE-DRIED (live). The procedures for these cases still progress.

In the reporting period, ROMA SOS from Prilep has asked an intervention to protect the rights of the Roma people, i.e. examination of the case with the girl who died of food poisoning after being referred to home recovery from the General Hospital in Prilep. The Ombudsman due to total clarification of the case has addressed to the State Sanitary and Healthcare Inspectorate and the Institute for medical jurisprudence in Bitola and upon the received information has additionally addressed to the Primary Public Prosecution in Prilep where he obtained the information that measures would be undertaken upon which it is going to be decided whether or not the a proper criminal report for negligent, nonprofessional and low quality treatment would be filed against the doctors treating the girl.



Education of the chilren in the elementary and middle schools

The right of the child to a primary and secondary education has been determined with the Law on primary and the Law on secondary education, according to which the education is free and mandatory. Starting from the Convention for the Children's rights and the above stated laws, the Ombudsman acting upon several complaints submitted by parents for enrolment of the child in first grade has asked the principles of the schools to respect the best interest of the child and to act in accordance with the Law on primary education and the Decision for reonization which has been accepted. Aside to the stated, he has intervened due to relocation of teaching staff from one to another grade during the school year pointing that it terminates the established manned of education and may influence the personal and social development and the desire for regular following of the education process of the children considering its age.

After obtained information via the mediums for public information that in a certain school in Skopje the students from the Turkish community do not attend classes for over four months, due to the leave of the teacher and the lack of another teacher, the Ombudsman has started a procedure for protection of the right to education of the students in their mother tongue. In that context the principle of the school has been asked to employ a new teacher and provide conditions for interrupted realization of this right of the children after which the Ombudsman has been informed that the school has employed a new teacher and the lost classes shall be compensated through a proper shortened syllabus to learn the material.

The Ombudsman upon own initiative has acted to protect the rights of the children in the kinder gardens and schools divided on the territory of the municipality of Aerodrom upon the received information that the children have been given questionnaires by the teacher for their parents to fill in regarding the operation of the Municipality.

The municipality of Aerodrom has answered that the children were not involved, but only asked to give the questioner to their parents, while the state Education Inspectorate after the performed monitoring of a kinder garden has concluded that the municipality has conducted a survey of informational character regarding projects implemented in the educational process and the questionnaires have not been forwarded through the children, but were given directly to the parents.

Because the information have been obtained through the mediums for public information, with no precise statement of the schools or kinder gardens on such actions, the Ombudsman has notified the competent bodies on the attitude that the children in the schools and kinder gardens should acquire education and should not be used to deliver mail and materials referring to the municipality operation or for the realization of other activities outside the educational process. Also, the inclusion if the children in such activities put the children in secondary positions to assume the role of municipal delivery service fearing possible consequences for the child.

Regarding the operation of the elementary schools in this municipality, the parents whose children go in "Gjorgjia Pulseki" and "Ljuben Lape" have submitted complaints complaining because at the beginning of the classes the hymn of the RM is being intoned i.e. the children who are late at the intonation of the hymn are not allowed to attend the classes.

The Ombudsman has submitted Information with a proposal to undertake measure to the Ministry of Education and Science pointing to the disrespect of the interrupted realization of the educational process, according to the Law on Primary Education and the provisions from the Law on Use of the Coat of Arms, Flag and the Hymn which precisely determines the performance of the hymn as a state symbol of the RM. In the same time he asked from the Sate Educational Inspectorate to perform inspection of the stated schools pointing the need of measured for protection of the right to education of the children. The Ministry of Education and Science has forwarded the case to the State Education Inspectorate which has informed the Ombudsman that after the undertaken measured it has been determined that a decision has been adopted by the Council of the Municipality of Aerodrom on the intonation of the hymn which is not opposing the provisions from the Law on Primary Education.



The Ombudsman remains at the standing that the development of the sense of membership of the child, during the educational process may be achieved in various manners and not only by intonation of hymn, for example by implementation of or adding to the school context or organizing activities for children's participation. Also the roles of the parents must not be neglected, i.e. the family in which the child develops and its influence on the growth and development of the child and in that context the raising of the child informing it on its affiliation to a certain community as well as development of patriotic feelings from youngest age.

During the reporting period the problem from the last year has reappeared in the elementary schools in Kiev due to unpaid debt for electricity. The Ombudsman starting from the best interest of the children and the right to education and on the other hand the obligation of the competences of the local authorities to provide proper conditions for realization of this right, has directed a request to the municipality of Kicevo to undertake urgent measures to overcome the situation and to find a quick and efficient solution realizing the right to education of the children guaranteed by the Constitution and the law and in the same time it would not affect negatively on the children's wellbeing and health. In the meantime the problem has been resolved and the children have continued with the regular classes.

A complaint on the poor conditions in which the educational process and finding spatial solution to follow the classes in proper conditions has been submitted by a group of parents whose children go in the high school in Tetovo. The Ombudsman has addressed to the Ministry of Education and Science and to the mayor of Municipality of Tetovo to undertake measures to resolve the problem. The procedure is underway.

The Ombudsman has received a complaint in the name of the students from a certain grammar school in Bitola in which they asked for protection of the rights regarding the manner the professors teach and grade for the subject's physics and geography. Upon the answer provided by the State Education Inspectorate that no violation of the rights has been determined, and that the professors have proper working qualifications and perform their takes successfully, the Ombudsman has notified the principle of the grammar school on the complaint and asked for measures for the monitoring of the behavior and manner of work of the professors in order to properly and timely intervene to protect the rights of the students and their quality education.

The reporting year has been marked by the boycott of the classes by the high school students who expressed their dissatisfaction from the new concept testing manner of the state exam taking as well as the manner of grading of the knowledge of the students finishing the secondary education (external testing).

The Ombudsman has continuously followed the situation and upon request of the High School Plenum has been included in the monitoring of the meeting of the high school students with representatives from the Ministry of Education and Science. In the same time, the Minister for Education and Science has been recommended to diligently respect the principle for the best interest of the child, in accordance with the convention for children's rights. Also respect of the European Convention for Human Rights protecting the freedom of expression a right including the free thought and receive and transfer of information and ideas as well as the Constitution of the RM guaranteeing the freedom of conviction, consciences, thought and public expression of the thought has been recommended.

Informing the Minister on the remarks of the students and parents, the Ombudsman has recommended to undertake measures to respect the right of the students directly affected by the reforms in the education to freely express their attitudes and opinions regarding the questions related to the educational process. In that context he has asked the Ministry of Education and Science to seriously pay attention to the remarks of the students and to discuss with them the solutions which would be commonly acceptable, full and quality and would not harm the students.

The Ombudsman has been notified that the Ministry of Education and Science has drawn the new concept of a state exam while the manner of taking of the external exam has remained to be implemented according to the known practice aside to the remarks of the students regarding the concept of the question, the taking conditions, final grade entering in the certificate and the impact of the average grade.





As a result from the boycott, the Ombudsman has acted upon complaints submitted by students through the cities of the RM, due to threats by the principles and part of the professors not to participate on the peaceful protest. The Ombudsman has separately asked the schools to respect the rights of the students, implying that each interruption or pressure is not allowed and is a violation of the rights, as opposed to the laws and international agreements ratified by the RM. The school have answered that the students have not been prevented from protesting and the absences are not register as unjustified.

According to the Ombudsman, there is a need of quality and constructive communication with the students because they are directly affected by the reforms in the educational system and it influences their development and the forming of their personality. The implementation of reforms in the educational process and the manner of their realization should no progress with no consultations, communication and dialogue with the young people included in it, the opposite makes they feel unnecessary and unimportant although these changes refer to the students themselves and they feel their impacts.

Rights of the children with disabilities

The Ombudsman through the Department for Protection of the Children and Persons with disabilities has followed the realization of the rights of this civil group before the bodies and institutions toward which he acts within his competence, considering the convention for the rights of the people with disabilities and the convention for children's rights.

The submitters of the complaints have asked for protection of the right to approach to servicers, obtain free ticket for public transportation or the opportunity to realize the right to a free interstate and railroad transportation. Also a legal advice has been asked to realize a certain right In that context, all tough in a small number compared to the last year, the complaints regarding the rights to social protection were not lacking, and from their content it has been concluded that the children/persons with disabilities face obstacles in the realization of the right to contribution for deafness and immobility, especially due to lack of deciding in the determined deadline, all tough separately upon intervention by the Ombudsman measures have been undertaken and the submitters have realized their right.

Regarding the education of the children with disabilities, the complaint with petition by parents in elementary school should be mentioned regarding the transfer i.e. enrolment of a child with disabilities in a special school, not to impair the education of others. In the particular case the child of the parent submitting the complaint has not attended school due to distasteful events related to the child with disabilities, and by the State Educational Inspectorate the parent has been informed that he/ she shall be obliged to pay a fine of 1000 euro in denar counter value due to lack of fulfillment of the responsibility of mandatory education.

The Ombudsman has informed the parent on the right to education which equally belongs to all children regardless of their physical or mental disability and asked the school to undertake measures for proper adaptation of the child I an educational environment with inclusion and engagement of the teaching staff and the family of the child with disability. Also, he pointed that the professional services should work with the child in case of resistance to learn in an environment where there is a child with disabilities and that the transfer of those child is not the only and best solution to the problem. The state education inspector has accepted to withdraw the request for fine of the parent and the parent was obliged to enable the child to attend the class.

The Ombudsman has organized a round table and joined to the activities to mark the International Day of the Children with Autism and considering the strategies in the education for inclusion and integration he conducted a research regarding the realization of the right to education of the children with autism.

The research has shown that in a large portion of the elementary schools there are autistic





children but not each school is ready or give proper education of the child according to its needs. In that context in a small number of elementary schools there is a special education teacher on staff i.e. a special educator to work with children with autism in the class, in part of the schools the special education teacher is mobile and covers several schools and works generally with all children with disabilities including the autistic children for a few times weekly, i.e. not daily. Also in some elementary schools the autistic children work only with the teaching staff both the other children even though the teachers have not been properly trained to work with such children.

The Ombudsman, on the concluded situations from the research, has notified the Ministry of Education and Science and before the professional and general public he has presented the obtained data with precise recommendations to overcome the obstacles faced by these children in the realization of the right to education.

The Ombudsman after precise cases regarding the right to education of the autistic children has pointed the local authorities and the elementary schools to the obligation to create conditions to integrate the children with autism for their proper and efficient inclusion in the regular education process and to create inclusion teas and to employ special education teachers/special educators in the elementary schools according to the needs of these children.

It is significant to point out that the persons with disabilities have asked for protection in the realization of the right to higher education, i.e. the right to enroll and exemption form payment of participation and after the undertaken measures by the ombudsman, the procedures have resulted positively.

Cooperation of the bodies and organizations with the Ombudsman in the area of children's rights

The Ombudsman through the Department for Protection if the Rights of the Children and Persons with Disabilities has followed the realization of the rights of this group of citizens before the bodies and institutions to which he acts within his competence, considering the Convention for rights of persons with disabilities and the Conventions for children's rights.

The complainant has asked for protection of the right to approach services, obtaining a free ticket for public transportation or the possibility to realize the right to a free interstate sand railroad transport. Also a legal advice has been asked in order to realize a certain right. In that context all tough in a smaller number compared to the last years, the complaints regarding the right to social protection were not lacking and from their content it has been determined that the children/persons with disabilities face obstacles in the realization of the right to income for deafness and immobility, especially due to lack of decision making in the envisaged deadline, all tough separately upon intervention of the Ombudsman measures have been undertaken and the submitters have realized their rights.

Regarding the education of the children with disabilities, the complaint with petition of parents from a certain elementary school of transfer i.e. enrolment of a child with disabilities in a special school in order not to impede the education of other children should be mentioned. In this case the child of the parent submitting the complaint has not attended school due to distasteful events related with the child with disabilities and by the State education inspectorate has been notified that he/she shall be obliged to pay a fine amounting 100 euro in denar counter value due to lack of fulfillment of the obligation of mandatory education.



Conclusions

- The right of the child to maintain contacts with the parent not living with him/ her is not fully and properly realized;
- The Centers for social work, with the undertaken measures do not contribute to visible changes of this plan, especially when the parent living with the child restrains those rights to the child at free will;
- In cases of domestic violence the victims, among others the child as well, leave the house and the perpetrator remains there.
 The system for temporary measures is not completely functional in order to evict the perpetrator from the home and give him/ her a restraining order preventing his/ her presence near the home;
- The children accommodated in the facilities often run away and the experts cannot provide efficient protection and change such behavior;
- The physical violence against the children by the teaching staff as well as the reported cases of sexual harassment imply that the children are not safe enough in the schools;
- Instead of a dialogue there have been threats and pressure over the high school students due to the peaceful protests about the new concept of state exam and the external testing of the students;
- The contribution for child support for third child are not regularly paid and with that the child and the family are brought into social risk;
- The right to inclusive education of the children with autism is just a formality and not a practical appearance because most of the elementary schools do not dispose of proper staff and conditions for work with these children.

Recommendations

- The Intermunicipal centers for social work should undertake all measures in the best interest of the child and to listen to his/ her opinion and adopt a decision which would provide unimpeded retaliation of those right of the child as well as measures regarding the parent preventing the child to maintain personal relationship with the parent who lives separately;
- The system for protection of the domestic violence victims should be enhanced and conditions should be created for the practical implementation of the protection measures according to the Law on Prevention and protection from domestic violence as well as complaint of the measure to evict the violator from the home;
- In the institutions for children sheltering, there should be exhaustive and efficient operation with the children at risk and to provide proper protection to overcome the problems in the children's behavior;
- To undertake measures for protection of the children from all forms of physical and psychological violence and enforcement of discipline in the school by respecting the dignity and personality of the children. The teaching staff should be appropriate for the children's needs;
- Communication should be established and practiced with the students while creating and implementation of reforms in the education which concern or refer to the students;
- Conditions for timely and interrupted payment of the contribution for child support for a third child would be provided in accordance with the Law on Children Protection;
- Diligent respect for the primary education in order to create conditions to realize the right to inclusive and proper education of the children with autism in all elementary schools.





RIGHTS FROM THE HIGHER EDUCATION

In 2015 there has been a mild growth of the complaints regarding the protection of the right to higher education. The Ombudsman acting upon them has intervened before the Ministry of Education and Science the State Commission for decisions in administrative procedure and working relations procedure to update the procedures upon complaints and complaints to issue a certificate for finished cycle of higher education, the right to taker a notary exam, and complained for protection of the rights in procedure of specialization and other rights of the students in the higher education institutions.

Upon an intervention of the Ombudsman, the students have been delivered decisions upon submitted complaint or complaint and the remark regarding the template answers by the state Commission for decisions in administrative procedure and secondary working relation procedure still remain. Namely, this body notified the students only formally and the Ombudsman upon a precise case, i.e. whether the complaint has been received or not and that it would act in the legally prescribed period considering the chronological course of the complaint receipt.

Acting upon complaints referring to the rights from the higher education, the Ombudsman has determined that by the Ministry of Education and Science the funds for preparation of master and PhD thesis have not been provided all tough the Ministry has established that for the preparation of masters of PhD thesis the candidates meet the conditions for single contributions for this intention. The Ombudsman asked the Ministry of Education and Science to notify him on the undertaken measures regarding each of the complaints, pointing that if the Ministry adopts a decision recognizing their right to undertake measures for payment, considering the importance and intention of those funds. The Ministry of Education and Science acting upon the direction, has informed that the payment of the funds of the candidates shall be realized when there are means for that intention after which the Ombudsman has submitted an Information to the Minister of Education and Science in order to seriously review this question and undertaking of proper measures to provide the necessary means and payment of the means for preparation of masters and PhD thesis of the submitters of the complaints meeting the conditions envisaged by the Law on Scientific and Research activity.

Furthermore, The Ombudsman in the reporting period has determined that the Bachelors in Law with 240 credits EKTS have not been allowed to take the notary exam, due to which he pointed the provisions from the Law on Notary according to which the exam may be taken by Bachelors in Law who in the time of taking of the exam have had two years of legal experience and asked for an explanation for the rejection of the candidates. The commission for notary exam has notified the Ombudsman that such demands are being rejected because the candidates do not meet the conditions, explaining that the Law on Notary and the rulebook on notary exam have been adopted according to the old programme of the system of higher education and that the diploma of the persons who have finished the first cycle of studies with 240 credits according to EKTS (European Credit Transfer System) is not an equivalent with the title of Bachelor in Law VII/1, with finished four years of studies before the introduction of the EKTS or with a diploma for finished legal studies with 300 credits acquired according to the European Credit Transfer System.

The Ombudsman, to the Ministry of Health, as an authorized proposer, has submitted initiatives for amendment of several provisions from the Law on Healthcare Protection. For the complaint of this competence it has been decided upon the receipt of a complaint by a group of specializing students from the Faculty of Medicine in which they have asked for intervention regarding the reexamination of the adopted law on Healthcare Protection envisaging new conditions for realization of the specialization in the RM.

The Ombudsman, analyzing the provisions from the Law on Healthcare Protection in the part referring to the implementation, termination and execution of a working period during specialization, has noticed situations which would not contribute to the efficient implementation of the specialization as well as improvement of the quality of the education of the holders of the secondary and tertiary healthcare in the RM. According to the Ombudsman, the approach toward amendments of the Law on Healthcare Protection, according to the remarks and proposals given in the Initiative





to the Ministry of Health, would contribute to the more accurate legal regulation providing rule of law as a foundation for the constitutional order and stronger and safer healthcare system which would increase the safety and satisfaction of the patients. The procedure upon the initiative is underway.

Although in a smaller number, during this reporting period the citizens have asked for protection before the Ombudsman due to rejection of issuance of a Certificate for a finished cycle of studies, conditioning them to pay the financial liabilities toward the Faculty. The Ombudsman has asked the State Education Inspectorate to perform monitoring over the particular faculty and in cases when it was confirmed that the students have passed all the exams as envisaged by the programmer and do have unsettled financial liabilities, has pointed to the complaint of the Law on Higher Education and asked for issuance of a certificate and a diploma. In the same time, the Ombudsman has directed to complaint of the provision from the agreement for court solution to the problem, which has been accepted by the faculty, for material tangible debts toward the Faculty for which no settlement has been made.

Conclusions

- The State Commission for decisions in administrative procedure of a secondary work relation has continued to deliver formal responses to the Ombudsman regarding the submitted complaints for rights from the higher education, referring to the lack of recognition of the function of the Ombudsman;
- The Students finishing with master and PhD studies have submitted a request for a single payment for preparation of the thesis and have not acquired the funds yet by the Ministry of Education and science, in spite of the decision that heir right is being recognized;
- Separate faculties condition the issuance of a Certificate for finished cycle of studies by settlement of the debt by the students, as opposed to the Law on Higher Education.

Recommendations

- The State Commission should improve their cooperation with the Ombudsman and the answers should be essential and not only formal, to just respond during the procedure upon complaint;
- The Ministry of Education and Science should undertake all measures to provide payment of the funds for preparation of a masters and PhD thesis for the candidates meeting the conditions;
- The Faculties with no conditions should act according to the Law on Higher Education and to issue to the bachelors the certificate for finished cycle of studies.

PROFESSIONAL RELATIONS

In the realization of the rights from the professional relationships, the citizens in a large number have asked protection of the employment procedures, the procedures of deployment, regarding the disciplinary procedures and the termination of the employment. Also, complaints have been submitted for protection of the rights on the procedures for payment of the salary and contributions related thereto (severance pay, jubilee rewards).

During the reporting year, the citizens have continued to submit complaints due to the unrealized right to employment upon the sign of the employment agreements with "Macedonian Forests"-Skopje.

From the individual action upon the complaints, it can be concluded that the rights of these persons are rudely violated because after two years from the signing of the agreements they have not realized the right to employment dot have a salary and contribution are not socially secured and do not use rights for unemployment either, because most of them have been erased from the records.

This situation has occurred due to the Government project to employ 1600 workers from the long term unemployed persons, over 10 years, and persons form families with many children and single parent families, unemployed persons where there is no employed persons, however the project has many weaknesses and is not well designed.

The Government has implemented this project without determination of the actual situation of the bodies on a state and local level for employment of workers, did not consider which work posts are necessary to announce the employment advertisement, but the number of 1600 workers has been announced only. After that, the advertisement has been announced by "Macedonian Forests" and it has implemented the entire employment procedure without the need to employ that number of workers and has only served to implement the employment procedure. This body has signed employment agreements with the selected candidates without implementing the procedure until the end i.e. did not report the selected candidates in the social security where the rights, responsibilities and obligations start based on the performance of the work tasks and after the signing of the agreements the undertake of the selected candidates has gone under the competence of the Ministry of Information Society and administration, which faced and is still facing numerous problems to implement the undertake of realize the project entirely. This project remains unfinished.

With such projects the citizens are only diluted that they would realize the employment right and are victims of manipulation waiting to realize this right and the right to salary as their most important issue, considering that they do not have any resources of existence and are on the verge of poverty. The fact that in 2015 this problem has not been solved because the Ministry of Information Society aside from the formal promises that the procedure in underway did not undertake any measures is especially concerning.

In the complaints referring to the protection of the rights in the employment procedures, most commonly for employment of teachers, the citizens have complained that candidates who do not meet the conditions determined by the Law on Primary Education and the Normative for the teaching staff have been selected. Upon these cases the Ombudsman has asked the State Education Inspectorate to perform and inspection and obligate the principles of the elementary schools to undertake measures and activities for diligent complaint of the regulation regulating this issues and asked the principles to implement procedures to employ proper staff so that the children would receive high quality education.

Complaints were submitted due to acceleration of the procedures for transformation of the work relation from definite to indefinite time period and regulation of the work status of persons performing work tasks in the education system. The Ombudsman has asked the municipal commissions, assigned for the performance of professional and administrative and technical tasks, while transforming the working relation, to accelerate the procedure of submission of the necessary documentation to the competent Ministry of Education and Science and after the submission of the necessary documentation has continued the procedure before the Ministry of Education and Science by pointing the need of adoption of the transformation decision as quickly as possible. A large number





of citizens have realized the working relation from definite to indefinite time period by adoption of proper solutions, upon the intervention of the Ombudsman.

Regarding the deployment procedures, the citizens have complained that they have been deployed on unsuitable work posts according to the degree of education and the because of that they have smaller salary. The Ombudsman has pointed the diligent implementation of the legal provisions and determination whether or not the work post at which the worker has been deployed has been envisaged by the act for systematization of the work posts in the body implementing the deployment and whether the worker meets the conditions envisaged for the work post at which he/ she has been deployed and realized the salary envisaged for that work post. In case of determined irregularity in the deployment, the Ombudsman has directed to proper requests and advised the bodies and gave legal advice to the citizens on the rights protection manner.

Part of the citizens has asked for protection from the implemented disciplinary procedures and considered that the commencement of the procedures has been groundless and without any specific reasons, i.e. that they have been violated due to subjective reasons of the superior or due to damaged personal relationships.

During the acting upon these cases the Ombudsman has asked the competent commissions, established for determination of a disciplinary responsibility of the worker to determine the entire situation for the precise case/event and consider the provisions envisaged for the implementation of the disciplinary procedure and to entirely apply them and adopt a legitimate decision regarding the determination of the disciplinary responsibility of the worker. In most of the cases, a disciplinary responsibility has been determined to the workers for whom decisions for determination of disciplinary measure- fine have been adopted.

Complaints for protection of the rights have been submitted due to unpaid salary and contribution related to the work (severance pay and jubilee rewards). Upon these complaints the Ombudsman has pointed that the right to salary of the worker as a constitutional and legal right is a responsibility to each employer and he requested realization of this right. In the same time, the Ombudsman pointed that each employer has the responsibility to pay the contributions related to the work as a determined right of the citizens according to the legal provisions. Upon all complaints submitted by the citizens they have realized the right to salary and part of the citizens have realized the right to payment of the contributions related to the work.

Regarding the cases requesting protection due to termination of the employment, the citizens considered that the solutions adopted have been illegal and groundless, and the Ombudsman has requested review of the procedure for adoption of the decisions of termination of the employment and proper complaint of the legal provisions in the implementation of these procedures.

The Ombudsman has intervened for the protection of the citizens in cases when the request for extension of the employment agreement has been asked for according to the Law on Work Relations, i.e. when termination of the work relation has been decided without consideration of the legal provisions. In this context, to enable the citizens to realize the right to extension of the employment agreement, the Ombudsman has pointed to the complaint of the Law on the adopted decisions for termination of the work relation due to meet age retirement conditions, considering that in their adoption the statement, i.e. the request for extension of the employment agreement has not been taken into account.

Upon intervention of the Ombudsman, the decisions for termination of the employment have been annulled and the citizens have continued to realize the rights from the work relation, i.e. their employment agreements have been extended in accordance with the Law.

This reporting year has covered cases of sign off from the social security agency, immediately after the adopted decision for termination of the work relation, without waiting for the decision from the secondary body upon the submitted complaint postponing the implementation of the decision for termination of the work relation due to the rapid and illegitimate actions by the superiors. Upon these complaints the Ombudsman has pointed and requested the body to undertaker measures to report the person/s in the social security agency because the sigh off has been performed prior to the decision adopted by the secondary body, by which they would be able to realize the working rights until the finalization of the decision for termination of the employment.







Conclusions

- Persons selected on the employment advertisement by "Macedonian Forests" are still waiting for their actual employment although two years have passed from the selection after the announcement for employment. During this period they did not receive salary and contributions are not socially insured and cannot use their rights based on unemployment because most of them have been erased from the unemployed persons registry;
- The persons requesting transformation of the work relation cannot realize this right due to lack of diligence of the municipal commissions for the performance of the professional and administrative and technical affairs who untimely submit the necessary documentation to the Ministry of Education and Science;
- The practice of sign off of the worker from the social security agency immediately after the adopted solution for termination of the employment i.e. with no diligent respect of the provisions for continuation of the agreement for employment upon a statement given by the employed person.

Recommendations

- Measures should be undertaken so that the persons who have signed employment agreements with "Macedonian Forests" – Skopje would be able to realize their right to employment and realize all other rights deriving from it;
- The municipal commissions should timely update the lists ad submit the documentation for the employees meeting the conditions for transformation of the work relation from definite to indefinite time period;
- Measures should be undertaken to respect and properly implement the provisions from the Law on State Administrative Officers regarding the sign off of the worker from the social security agency as well as diligent implementation of the Law on Work Relations regarding the right to extension of the Employment Agreement.

PROPERTY AND LEGAL RELATIONS

In 2015 most of the complaints from the legal and property area have referred to protection of the rights in the procedures for denationalization, where the institutional battle of the citizens lasts for decades and it is a segment in which the Ombudsman has continuously determined violation of their rights in all degrees of the procedure and by all competent authorities. For that reason, based upon the determined general condition, this year has not been an exception compared to the previous ones, and all stated conclusions for the irregularities in the action, the problems faced by the subjects and the irregular complaint of the Material law, may only be repeated.

Precisely for such cases, it is indisputable that the commissions for denationalization within the Ministry of Finance, delay the procedure and update it after the Ombudsman intervened according to the separate complaints. As a result, there is almost no case for which a decision was made in this reporting year i.e. a solved case and the small number of solved cases have been solved negatively. Also the commissions for denationalization respond that in the repeated procedure measures are being undertaken for determination of the actual condition and the necessary evidence are being gathered for the solution of the case.

However, in the examination of the case operation and the documents of the separate cases, the Ombudsman has concluded that the Commissions for denationalization instead of an effective mechanism to realize the rights of the citizens sometimes turn into an instrument disabling the re-



alization of the rights of the citizens guaranteed by the Law on Denationalization. That derives from the fact that there is a lack of acting according to the stated legal realizations and given directions in the decision of the court bodies and the requests re denied several times with the same explanation, as in the decisions which have already been annulled as illegitimate.

In this segment, the Administrative and higher Administrative Courts have their contributions considering that although they have the opportunity, they almost do not adopt meritory decisions upon certain requests. The administrative procedures for completion of the cases and the diligent submission of the decisions and other documents to the parties in the procedure some times last for years. Also, due to the poor communication among the Ministry of Finance, the State commission for decision in administrative procedure and secondary procedure of work relation the Administrative and the Higher Administrative Court, the case have been stuck in the maze of bureaucracy and the parties suffer the harmful effects.

These situations have been illustrated by the fact that the competent bodies cannot coordinate and provide evidence for the legitimacy of a certain decision for years, or the case needs to be completed with documents and be forwarded to the competence of the higher court.

Furthermore, with almost the same problems, the citizens face every day in the procedure for privatization of a construction ground, where this year, it is specific that due to the large number of cases by the Administration for property and legal affairs, instead of being solved in the locally competent departments, most commonly in Skopje, the cases are being forwarded in the regional department through the Republic. According to the explanation of the Ministry of Finance, such actions have been undertaken in order to increase efficiency and timely action upon the requests for privatization of a construction ground. To that end, the Ministry has made amendments of the Rulebook on organization and operation where aside of the determined competence, each local department for primary administrative procedure may perform tasks in other local departments if needed for the continuation of the work process.

According to the Ombudsman it is disputable whether or not such actions comply with the rule of the administrative procedure referring to the local competence. Actually, the imperative norms from the Law on General Administrative Procedure, impose determination according to the location of the real estate and the residence of the subjects within the prescriptions for internal organization of the bodies deciding in the administrative procedure. Also, the Ombudsman has concluded that this process would not contribute at all, as the Ministry claims for the efficiency and timely action, but the opposite, the procedure shall be additionally complicated because the parties would be exposed to expenses for evidence submission and would disable the immediate communication.

For the analysis of the case operation, the Ombudsman has determined that from the huge number of cases, a very small number have been positively resolved or are not resolved at all. Therefore, only the cases for which the citizens do not meet the legal conditions because they have not been registered as users of the ground are resolved by decisions of denial. Therefore it must be pointed that the citizens, not by own fault, but because of the improper information by the competent state bodies have submitted these requests for which it is clear that the procedure would end negatively from the start and they would needlessly be exposed to expenses for administrative taxes, evidence provision, studies preparations etc.

The rest of cases, due to disputable and unsettled property and legal relations, due to lack of diligence and improper progress of the procedure in all degrees and by all competent authorities, and the lack of capacities of the Administration for property and legal affairs and due to other similar conditions are being resolved very slowly or are not resolved at all. In that direction, upon the interventions of the Ombudsman for action upon and deciding within the determined deadlines and does not act with the same explanation.

As a result, this reporting year the citizens have submitted a substantial number of complaints against the Agency for Cadastral Affairs for Real Estate and its organizational units with directions that in their cases it is not acted legally and there is registration of the right to property and other limitations of the rights to determined real estate with no legal base. Also, the last few years there is a lack of cooperation of the agency with the Ombudsman and continuous inaction and lack of

measures for implementation of the given requests recommendations and direction for realization of the rights of the citizens.

Therefore, for all cases for which from the Sector for Internal control and Monitoring over the agency it has been requested in context of the pointed cases to undertake measures for examination and control over the legitimacy of the actions in the Center for Cadastral and Real Estate affairs in Skopje or some other department in the RM, there is lack of efficient and quality investigation i.e. nothing is essentially done. Actually, a formal obligation is performed for the competent organizational unit, for the case to be reexamined and then with almost no exception upon official duty a confirmation is issued that there with no basis of action according to the requests submitted by the parties or information have submitted to them to realize their right in a court procedure.

Such manner of action refers even to the cases where there has been indisputably concluded or detected hints for irregularities in the operation with reckless and irresponsible performance of the tasks regarding the cadastral officers and maximum disrespect of the legally prescribed rules of procedure. That, on the other hand, causes situations when there has been correction upon official duty, of a technical error and alters the right to property and its holder, when suddenly recorded limitations of the real estate disappear, such as mortgage or even though the Cadastre disposes of all documents the civil reports are dined several times due to their partiality. In that segment, using their legal amateurism and lack of information, the citizens are led to submit various requests and reports to the Cadastre and expose themselves to financial expenses for serviced they cannot obtain, i.e. to realize their right.

Also mostly as a result of the lack of activity to inform the citizens on the implementation of the amendments of the Law on Cadastre of Real Estate there have been complaints that the acreage of the real estate has been reduced. For these cases, the Ombudsman has concluded that they have occurred in the process of digitalization of the analogue plans and their transformation in electronic form for which the parties have not been previously, properly and timely informed. Also, because the difference appearing in the acreage in within the permitted deviation according to the provisions of the Law on Cadastre of Real Estate, by the Agency, for such cases there is not special decision adopted for digital acreage, i.e. such decision has been issued only for the deviations exceeding the perimeter degree.

In the end, the fact that the Cadastre shows no respect for the decision by the Administrative and Higher Administrative Court and does not act according to their contents is very concerning. Namely, for all such cases upon which the Ombudsman has acted, the same confirmations are persistently issued or the reports by the parties are being ignored and cases are being formed upon official duty for which new confirmations are being issues, but also negative for the parties.

Conclusions

- The commissions for denationalization instead of effective mechanism for realization of the rights of the citizens turn into an instrument disabling the bright guaranteed by the Law on Denationalization;
- The Administrative procedures for completion of the cases and the diligent submission of the decision and other submissions sometimes last for years;
- The cases of privatization of construction ground instead of being solved in the locally competent departments (most commonly in

Recommendations

- The competent bodies (the Ministry of Finance anthem Administrative and the Higher Administrative Court) should urgently resolve all of the cases for finally ending the denationalization process;
- The Ministry of Finance should intensify the privatization process of the construction ground and through cooperation with the competent authorities should overcome the problems of administrative character, affecting the delay of the separate procedures;



Conclusions

- Skopje), are sent form the Administration for legal and property affairs to the local departments through the RM;
- Only a small number of received cases resolve positively or are not resolved at all compared to the huge number of received cases;
- The lack of effective cooperation of the agency for Cadastre of Real Estate with the Ombudsman and the continuous inaction for implementation of the given requests, recommendations and directions for realization of the rights of the citizens;
- The Cadastre does not respect the decisions of the Administrative Court and the Higher Administrative Court and does not act according to their content.

Recommendations

- In cases of suspicion of the irregular operation with reckless and irresponsible performance of the tasks of the Cadastre official and disrespect of the legally prescribed rules of procedure, the agency should implement efficient and effective investigation, and to act upon the decisions of the court bodies and cooperate with the Ombudsman;
- The competent bodies should provide diligent respect of the legally determined deadlines in the action regarding the administrative procedures for the completion of the cases and the submission of the decision and other submissions in the procedure.

URBANISM AND CONSTRUCTION

The urbanism and construction are especially important of the citizens on the RM and the society in general, especially if we consider that through the design and humanization of the space, there is providence of standards and conditions for better life and operation as conditions to raise a healthy family unit, urban living as well as well-regulated ownership and legal relations.

In order to protect the civil rights, the Ombudsman has undertaken action within his competence, thus directing a large number of requests for notifications, requests for performance of inspection monitoring, interventions, recommendations and directions mainly to the mayors of the municipalities to handle the local urban problems.

The case operation proves that the Law on action with the illegally constructed buildings is still insufficiently implemented by the local self-governments due to which a small numbers of requests given by the citizens have been resolved by adoption of a proper act, confirmed by the research performed by the Ombudsman in 2015. Among the other, from the research covering all units of the local self- government it can be concluded that until 30.09.2015 in the RM 113.096 cases have been resolved which is a third of the total number of submitted 334.293 requests for legalization of the illegally constructed buildings. Until now, the legal status for a total number of 107.682 has been defined.

Most of the requests for determination of the legal status of the illegally constructed buildings in the municipalities Kumanovo, Gazi Baba, Bitola and Kisela Voda, with a percentage of resolved cases is biggest in the municipality of Ilinden 73%, Pehcevo 60%, Gostivar 53%, Kocani and Centar 52%, Bogovinje, Gevgelija and Negotino 51%. On the other hand the number of solved cases in the municipalities of Lipkovo 4%, Aracinovo 7% and Saraj 9% remains the lowest, also in Novaci, Plasnica and Studenicani with 23% etc.

There are several reasons for this small number of solved cases influencing the length of the procedures and as main reasons we can point the lack of submission of a triangulation study and the unresolved property and legal relations.



The Ombudsman has informed the mayors of all units of the local self- government due to unobstructed realization of the rights of the citizens and diligent implementation of the entire process to determine the legal status of the illegally constructed buildings. Among the other, he recommended that where possible, in order to accelerate the entire process and not to burden the supplicants, the resolving of the legal and property relations should be executed upon official duty in cooperation with the rest of the competent bodies (the Agency for measuring and Cadastre of real estate and the Administration for property and legal affairs). Furthermore, there should be amendment of the existing law in which instead of legalization by submission of notarized statements by the previous owners or uses of the ground submitted by the supplicants, the legalization should be performed by submission of a statement by the supplicant that they have bought the ground where the building has been constructed. Also the Ombudsman has recommended to review the possibility for the supplicants to be able to pay the fee for legalization in several installments.

Also, the Ombudsman has reacted upon the large number of legal amendments and determined measures to facilitate and update the procedures, especially for a certain category of citizens in social risk. The citizens who receive social and permanent financial assistance as well as the citizens with low incomes, to 168 000 denars annually in the entire household, have the right of elaboration of a free triangulation study from which they should submit a request to the local departments of the agency for Cadastre of Real Estate.

The Ombudsman has recommended to the local self-government units to continuously inform the citizens how to use this benefit, as well as on the possibility to submit new requests until March 31st 2016 to determine the legal status not only to the buildings constructed until 03.03.2011, but for legalization of the balconies which the citizens in the collective apartment buildings have adapted as housing spaces.

Acting upon complaints referring to the forceful enforcement of executive administrative acts, the Ombudsman has concluded that enforcement procedures for forceful administrative enforcement of executive and administrative acts for elimination of illegally constructed buildings prior to 2011 have not been performed at all as well as in 2015. This, due to the limitation envisaged with the Law on Action with the Illegally constructed buildings envisaging that all executive procedures should stop in order to enable the owners to legalize the illegally constructed buildings, if the meet the legally defined conditions.

According to the Ombudsman, there is more diligent operation of the authorized urban and construction inspectors while preforming inspection over new buildings under construction, and it should continue. Also, it is necessary to intensify the prevention activity of the inspection services via more frequent examinations of the site in order to stop the illegal construction activities at their start.

There has been a bigger dynamics in some units of the local self-government in the procedures of adoption of detailed urban planning necessary for more diligent implementation of the procedures with illegally constructed buildings and the possibility for their adaptation. The realization of the detailed urban plans still represents a problem for the municipalities, above all in the area of construction of facilities under the public infrastructure, such as streets, sewerage and water supply network.



Conclusions

- The dynamics with which the process of legalization of the illegal constructions progresses is dissatisfactory;
- The insufficient professionalism in the action and decision making process of the competent bodies locally as well as the lack of legal action of the inspection bodies causes delay of the procedures, provokes the illegal construction as well as the lack of sanctions of the illegal construction;
- Preparation and adoption of detailed urban plans which do not consider the real needs of the citizens and legal subjects.

Recommendations

- Measures should be undertaken to improve the operation so far of the units of the local self-government in order to timely and diligently decide upon the requests of the citizens in the procedures of the legalization of the illegally constructed buildings with respect of the envisaged deadlines;
- Continuous trainings and education of the official persons for the complaint of the legal regulation and adoption of by laws for more detailed regulation of the legal matter with clarifications and directions to work, staffing through engagement of a bigger number of professional people (architects, lawyers etc.) which would contribute to the increased diligence and professionalism in the actions;
- In the preparation and adoption of the urban plans, the units of the local self-government should consider the real needs of the citizens and with them to provide not only a rational use of the space, but also conditions for human life and work of the citizens in the considering especially the commercial interest of the investors.

HOUSING RELATIONS

The housing area during 2015 is one of the areas of interest ad action by the Ombudsman to realize the protection of the constitutional and legal rights of the citizens. The number of complaints in which the citizens complain of violation of the rights in the housing area, this reporting year as well, is not very big. Most of the complaints refer to the inefficient, not cost effective and not coordinated operation of the Joint stock Company for construction and economy with housing and business space of significance for the RM ad its local units, the Commission for housing matters of the Government of the RM and the Department for housing and utilities within the Ministry of Transportation.

The state, through determination of legal measures and activities has the responsibility to provide it citizens with proper conditions for permanent residence. In this context the legal improvements with which conditions have been created to regulate the legal status of the housing units, i.e. there is an opportunity to buy out the apartments given to persons with low incomes.

Therefore, most of the citizens have asked for protection from, the Ombudsman in the procedures upon the requests to buy the social apartments, as well as for the renewal of the lease agreements and a smaller number of complaints have been submitted to the Ombudsman by people in social risk complaining to groundless delay of the procedures for apartment lease.

Acting upon these complaints, the Ombudsman has submitted requests to accelerate the pro-





cess of decision making and to prepare proper acts to the Joint stock company for construction and economy with housing and business space of significance for the RM and the Sector for housing and utility matters within the Ministry of Transport and the Commission for housing matters within the government of the RM. Also the Ombudsman has directed these bodies to defiantly resolve the problem considering the special status of the citizens. In most of the cases the requested responses have been untimely submitted by the aforementioned bodies, but the responses have not been essential i.e. did not contribute to the precise resolution of the housing matter.

Conclusions

- Although, with the legal amendments, conditions for status regulation of the apartments in social property, the apartments given to persons with low incomes and the apartments used by citizens with no proper assignment act were created, the procedures for apartment purchase have not been entirely realized;
- The Joint Stock company for construction and economy with jousting and business space of significance for the RM with its lack of diligence has obstructed and restricted the regular and legal use of the state owned property;
- Lack of diligence and efficiency in the operation of the Commission for housing issues within the Government of the RM in the actions upon requests for apparent assignment under lease for the citizens under social risk.

Recommendations

- Measures should be undertaken to properly resolve the legal status of the apartments in social ownership and the apartments given to persons with low income and the apartments used with no proper act for assignment;
- Bigger diligence and care in the economy with the state owned property by the Joint Stock company for construction and economy with jousting and business space of significance for the RM;
- The actions upon the requests of the citizens for apartment assignation under lease should be more diligently implemented by the Commission for housing matters.

ENVIRONMENT

The preservation of the values and the improvement of the conditions for a healthy environment, the decrease of the life and health risks, the discovery and prevention of the harmful influence over the environment are the primary responsibilities for the country in general, as well as for every individual. The care for the environment implies adoption of an exhaustive and full system for protection with precise measures because the partial and palliative give short term results and do not contribute to the full solution to this problem.

Opposite to the alarming state with the illegal landfills, the big industrial polluters and the huge air pollution in the bigger cities, especially Skopje and Tetovo, the practice of small number of complaints submitted to the Ombudsman regarding the environment remains small in this as in the previous years.

According to the analysis and measurements by the authorized measuring points of the Public Health Institute, the publicly announced concentration of the harmful particles in the air in 2015 were continuously alarmingly high breaching the set standards for air quality. During certain days 20 times higher values were measured indicating the amount of aerosols compared to the permitted maximum. The additionally performed analysis indicated that more than 90% of the harmful





particles come from the heavy industry and metallurgy, the utilization of coal in the electricity production, the dense traffic in the bigger urban and industrial centers as well as the heating of the households with wood.

The air pollution is influenced by the topographic location of the bigger cities which are mostly located in valleys causing appearance of fog insufficient air circulation as well as temperature inversion because the polluting substances survive in the air for a long time.

The Ombudsman considers the bigger industrial capacities in Skopje, Tetovo (Jegunovce), Bitola (REK Bitola), Kavadarci (Feni) and Miladinovci (OKTA Refinery) to be a big problem because of their lack of observance of the ecological standards in the operation, thus influencing the poor air quality. Also, the long and complicated procedure for providence of the mandatory A- integrated ecological permits for pollution prevention and control, is also a problem. These permits should confirm that the production process in the industrial capacities is safe and in compliance with the normative for preservation of the environment. The poor policies of the competent bodies, the tolerance of part of the big polluters and the frequent selective continuation of the deadlines for protection filters installation are a very harmful influence to the already negative state in this area.

Additional pollution sources in the cities are also the poor urban planning, as well as the numerous sites of construction activities emitting big amounts of dust. Also, aside to the industrial facilities and the use of wood for heating, during the last 5 to 7 years the government decision for import of used vehicles with euro 3 normative, over 10-15 years old, contributed to the pollution. These vehicles do not meet the declared euro normative, do not have protective filters and catalyzer and increase the emission of the harmful PM10 particles in the air.

Still, one of the greatest omissions regarding the environment protection is the lack of landfills meeting all ecological standards. The improper disposal of the debris has long term and exhaustive impacts on the environment, not only regarding the air pollution but also regarding the soil pollution and through that the subterranean waters which are used to irrigate the agricultural produce. The construction of municipal or regional landfills meeting the international standards would contribute to the improvement of the generally negative situation. A characteristic example for that is the improper waste disposal (lack of landfills) in Tetovo where the waste is being burned due to which there is big quantity of suspended particles in the air. In this context, we must stress the fact the Tetovo is a city with big density of population counting 330 residents on a square kilometer, improper urbanization and increased construction activities, several production capacities which along with the urban factors such as the dense traffic, uncontrolled individual heating impact the air pollution.

For these reasons, the Ombudsman in 2016 shall implement an exhaustive research of the situation with the waste disposal and management.

There is a frequent appearance of floods in several regions occurring as a result of the uncontrolled waste disposal and construction waste in the river banks and channels due to the low ecological conciseness of the population. The competent institutions are responsible of this situation due to the lack of continuous actions to maintain and clean the river banks and channels. Unfortunately, it is most commonly done upon the caused material damage. Because of the aforementioned there is a great need of preventive actions in this segment.

According to the Ombudsman, aside to this situation, the competent bodies wander unsuccessfully in effort to handle the situation and to find manners to handle this problem having a substantial significance for the life and health of the people and the protection of the entire biodiversity.

It is obvious that there is a lack of prevention mechanisms and control by the inspection bodies benefiting the polluters, thus creating the need of additional measures to enhance the inspections and controls on site.

The presence of such conditions imposes the need to which the Ombudsman frequently points, and it is the intensifying of the environmental education programs for the citizens, considering that the ecological consciousness in the this area is still very low.

During this reporting year, as well as the previous years, the complaints received from the citizens most frequently refer to the problems that immediately endanger the personal rights or

interests of the citizens, such as the pollution of the environment media, increased noise level in the catering facilities located near the housing facilities, pollution of the environment by garbage disposal and other waste materials in illegal landfills located near their homes as well as the delay of a certain administrative procedure i.e. untimely measures undertaken by the inspection bodies. The Ombudsman, acting upon the complaints has addressed to the environmental inspectors locally and centrally in order to undertake measures for protection of the civil rights.

Conclusions

- The reckless operation of the inspection services on central and local level, as well as the insufficient care and lack of preventive measures of the competent bodies is especially concerning;
- The inexistence of an exhaustive strategy for protection of the environment in all segments;
- The lack of landfills meeting the ecological standards contributes to the increased level of pollution of the air as well the water, soil and food;
- Low ecological consciousness of the citizens and the consciousness of the bodies responsible for the continuous monitoring of the situations and the lack of measures to overcome the problems.

Recommendations

- Enhanced and frequent inspections and controls on site and non-selective complaint of the prescriptions;
- The authorities should urgently prepare a strategy for protection of the environment;
- The competent institutions on local and central level should provide means from their budgets for construction of landfills meeting the prescribed ecological standards;
- Intensive education programs for the citizens in the area of preservation of the environment and measures to increase the conciseness and habits of the citizens for a healthy and clean environment.

FINANCIES AND CUSTOMS

This reporting year has been marked by the increased number of complaints referring to the protection of the rights of the citizens in the area of finances. The exceptionally poor approach in the determination and collection of the broadcast fee and the poor keeping of the registry of obliged citizens for broadcast fee payment, are the main reason for violation of the rights of the citizens by the Macedonian Radio Television (MRT) and the Public Revenue Office (PRO), a long-lasting state.

In this segment, the fact that most of the submitted complaints, especially the part regarding the broadcast fee and determination of the collection of the property tax, the Ombudsman has concluded violation of the rights of the citizens, i.e. that they are well based. Namely, the citizens groundlessly and out of all legal prescriptions are being obliged to pay this fee, and it is being forcefully collected I many cases, the groundlessly registered debt is not being signed off and the collected funds are not being returned to them. The Ombudsman has concluded that this occurrence has appeared due to the responsibility of the institutions in the system, the lack of coordination among them as well as the transfer of their responsibility from PRO and MRT and vice versa.

It is indisputable that by MRT and PRO, upon official duty and own initiative a detailed exami-



nation and update of the Registry of bondholders for broadcast fee payment is not being performed, which would determine that in this registry there is a large number of persons who are supposed to be erased. Therefore the citizens are put in a position to waste time exhausting themselves in order to prove that they cannot be bondholders to pay the broadcast fee or they have already paid the debt.

Actually, as a result of the lack of update of the data in the registry, frequently two or several members of a same household are obliged to pay the broadcast fee and it is being forcefully collected and even though the Law relieves them of this obligation, there are still persons in the category of users of social or permanent financial assistance, a family with a blind person with over 90% of vision damage, a deaf person with hearing damage of over 60 decibels, a person with over 90% disability, persons being relocated for years and residing in sheltering centers, homeless persons etc.

The recommendations of the Ombudsman to erase the persons who are groundlessly registered in the Registry by ULP and MRTV are being accepted, however there is no sing off of the recorded debt and return of the groundlessly collected financial means. Although the Ombudsman has notified the administering structures of MRTV by a special report, constantly receives the response that PRO shall return the funds, but only if MRTV adopts a proper written decision for their sign off. Still a decision with such contents has not been adopted and there is no answer why. The explanation given by the administrative officers in MRTV that the adoption procedure is underway and lasts not months but years, is unacceptable for the Ombudsman, as well as for the damaged citizens.

Here, the question whether or not the money taken from the citizens illegally served to finance the operation of MRT can be legitimately posed. For these reasons, the Ombudsman has several times complained to the administration of MRTV to immediately adopt the decision for sign off of the groundlessly registered debts because no one, most of all the institutions, has the right to violate the civil rights and to dispose of their money earned from their salary, pension or some other basis.

As a result, MRTV instead of signing off the debts and return the money, has additionally provoked an absurd situation directing the citizens to submit separate complaints for these decisions, through PRO to the Ministry of Finance totally ignoring the fact that the deadline to do so has expired as well as the fact that the citizens have to pay an administrative tax, i.e. 250 denars for a decision. The result of all this is a violation of the civil rights, exposure of the citizens to payment of unnecessary costs and creation of confusion in front the windows in PRO and MRT.

The Ombudsman, still concludes that in the procedures for forceful collection of the broadcast fee, the various taxes, fines and other public costs, implemented by PRO, the City of Skopje and the Municipalities, the rights and the dignity of the citizens and their families have not been considered at all. To implement this the above stated institutions take all the funds from their bank accounts living them with no means of existence.

The interventions by the Ombudsman to return the groundlessly collected financial means by the City of Skopje and to consider the restrictions, exemptions from forceful collection are not at all respected. Almost always, the City of Skopje, chooses to block the bank accounts as a manner of forceful collection, all tough in that manner the rights of the citizen are being violated, among the other reasons, due to lack of explanation as well as the improperness of the legal regulation.

Also, the situation of a total disrespect of the rules of the procedure (especially by the administration of the City of Skopje) in view of the determination of the persons obliged to property tax payment and the submission of the decisions and other written correspondence to the subjects in the procedures. It makes the tax obliges to be persons registered to sell the property, i.e. do not own/ use the property or to forcefully collect such tax with no prior notification, warning, decision submitted to the tax bondholders. Seeing the omissions upon the given interventions by the Ombudsman, the administration of the City of Skopje in such cases additionally insist for the citizens to give statements by themselves that they do not demand return of the groundlessly collected debt but what a compensation of another debt which has not matured for collection.

Also, due to bureaucratic problems and avoidance of the responsibilities from the legally determined competence, the proving of that they use the determined ground for agricultural purposes and should be relived from the property tax is very difficult for the citizens. Namely, without any

objective circumstances, this category of citizens is persistently referred by the administration of the City of Skopje to the administration of the municipalities or the local units of the Ministry of Agriculture, forestry and water economy to obtain the minutes for the intention of the ground and such procedures last unnecessarily very long.

Furthermore, for the huge number of cases of violation of the civil rights, the business banks which in the procedure for forceful collection according to decisions adopted by PRO, the City of Skopje and the Municipalities have given their contribution, aside from taking the entire amount of money received based on salary, pension, contribution for a child, scholarships, social protection etc., determined the commission by for blocking and de-blocking the accounts and other costs in the procedure which they collect from the citizens even when they have been groundlessly collected and do not return them. According to the Ombudsman, the fact that all banks have different tariffs for services reacted to the forceful collection which may amount more that the main debt, is unacceptable. Actually, it is about performance of tasks which in their nature are the same and there is no objective criterion according to which they should be different in all banks.

Such situation , impacts negatively on the realization of the constitutionally guaranteed rights and freedoms and it id additionally complicated by the fact that the Government of the RM has not acted upon the initiative given by the Ombudsman (in May 2014) for amendment of the Law on Tax Procedure and the Law on Property Tax. The Government has forwarded the initiative to the Ministry of Finance where it still is and the Ombudsman as an independent institution has no information on it acceptance.

Namely, there is no objective basis, for this initiative not to be accepted and according to its contents the citizens should be protected, i.e. should not be left with no sources of existence. Therefore there must be provisions according to which the PRO, the City of Skopje and the Municipalities the forceful collection decisions based on financial demand upon accounts in a bank belonging to natural entities, have to mandatory prepare respecting the limitations of the enforcement, i.e. not taking more than one third of the salary or pension, the enforcement procedure cannot be implemented over incomes based on social protection, disability, single payment, contribution for a child etc. and to consider the dignity of the debtors and their families and to make the enforcement procedure more convenient for the debtors. The necessity to amend these laws may best be illustrated through the daily situation in the banks when the citizens discover that the entire amount of financial mean obtained on some of these bases has been taken upon a forceful decision collection adopted by PRO, the City of Skopje and the Municipalities.

This behavior of the stated institutions is unacceptable and is an obstruction in the operation of the Ombudsman in one of his main functions which is to protect the constitutional and legal; rights of the citizens when they have been damaged by the state bodies and other bodies and organizations having public authorizations. The legal prescriptions in any case must guarantee the citizens their right to make the enforcement procedure more convenient and not leave them with no means for existence and the operation of the Ombudsman for all these cases is to alarm the public and request from the competent bodies, including the Assembly and Government to fully engage within the determined competences in order to undertake measures to overcome such situation.



Conclusions

- The increase of the number of complaints submitted by citizens against MRTV and PRO, the exceptionally poor approach in the determination and collection of the broadcast fee and the negligent keeping of the broadcast fee payment obliges registry;
- A large number of citizens have groundlessly and upon of all legal prescriptions been obliged to pay this fee and many times it is being forcefully collected and the groundless debt is not being signed off and the collected or forcefully take means are not returned to them;
- The recommendations by the Ombudsman for remove the persons who have been groundlessly entered into the registry are accepted by PRO and MRTV, but there is no sign off of the registered debt and the groundlessly collected financial means, nor there is a decision for sign off of the illegally collected financial means, although the Ombudsman has informed the administrative officers in MRT on this problem as well as the Government and the assembly;
- For years in the procedures for forceful collection implemented by the PRO and the City of Skopje and the Municipalities there is no regard of the protection of the rights of the citizens and their families because all financial means are taken from them leaving them with no means for existence;
- Without existence of any objective reasons the Government has still not acted upon the initiative of the Ombudsman (given in May 2014) to amend the Law on tax procedure and the Law on property taxes;
- The business banks have a different tariff for collection of services related to the forceful collection.

Recommendations

- Overcoming of the exceptionally poor manner of determination and collection of the broadcast fee and MRT should diligently fulfill the legally established responsibility to constantly update the broadcast fee payment obliges registry;
- MRT should immediately adopt the necessary decision to sign off the groundlessly registered debts and to return the illegally collected money to the citizens;
- In the procedures for forceful collection implemented by PRO, the City of Skopje and the Municipalities, it is mandatory to consider and protect the rights of the citizens and their families without taking all of the financial means leaving them with no means of existence;
- Due to effective and efficient protection of the right so the citizens in the procedures for forceful collection, according to the case initiative by the Ombudsmen, a proper draft for amendment of the Law on Tax Procedure and the Law on Property Taxes should be prepared;
- To determine the issue on the amount of the bank serviced in the procedure for forceful collection with a single act, and in the prescriptions regulating the payment system to envisage provisions enabling diligent respect of the provisions from the laws on enforcement procedure restriction.



CONSUMERS RIGHTS

Due to protection and realization of the their rights as consumers, the citizens in this reporting year mostly complained regarding the dissatisfaction from the use of the services of the public utility enterprises, the delivery of electricity and heating, the use of phone and other communication services as well as the quality of the purchased products.

In that direction, about the complaints submitted due to the operation and services of the public enterprises performing utility activities such as water supply and waste disposal, most of which were about PE "Water supply and Drainage" and the PE "Communal Hygiene"- Skopje, it is characteristic that it is not about isolated cases, but states repeating each year.

Those are problems referring to disputable bills emerging from the manner of calculation of the used water, the irregular reading of the water gauges, the lack of diligence of the official persons regarding their change upon a defined dysfunction or upon a request by the citizens, the quality and manner of the performance of the service etc. Also, hiding the omissions and weaknesses in the operation of its services and individuals and staring only form the monopoly position, there is a groundless damage caused to the users of the services and their legitimate rights and legal interests.

By the untimely detection of such situations within the regular work activities for continuous maintenance and control over the system and with no objective circumstances what so ever, the period of collection upon average for the allegedly dysfunctional water gauge is being delayed. Therefore, instead of the real amount for used water, the citizens are obliged for bills for used water which are higher than the previous ones, when the water gauges would be regularly read and with regular control of their functionality and the requests for their replacement would be timely performed.

The regular reading of the state of the water gauges is indisputably the only control mechanism through which the correct consummation of water may be recorded and by that the real debt. Due to such actions of the competent services of the PE "Water supply and Drainage" Skopje, the Ombudsman has determined that many citizens are being obliged with a debt which is not real and did not emerge from a used service. Namely, the number of citizens who are registered as debtors in the correspondent EP for debts referring to a period of over 10 years it is explained that have occurred as a result of a dysfunctional water gauge.

Consequently, certain citizens, even from the urban city area, are at once oblige with one invoice with enormous amounts for used water (even over 10 thousand euro), allegedly due to incorrect or unrecorded water gauges, which of course is unreasonable and unallowable. Thus, there is demand for collection for all the time of the facility existence, decades back, with no consideration of the obtaining or change of the ownership and users of the service, a fact proven by the citizens with proper documentation.

Also, there is no internal control in order to determine and sanction the omissions deriving from reckless and irresponsible performance of the tasks of the employees in the PE, especially in cases when there was no timely and proper action upon the requests of the citizens to act in direction of recording the occurred changes.

Upon the recommendation and directions given by the Ombudsman to remove such irregularities, there has not been any action due to the reckless and irresponsible behavior of the competent services, the PE in almost all cases has justified only by a given statement of the collector for the reasons due to which the water gauge has not been read.

But all of these statements have not been recorded with an archive number and do not contain data on the day, moth and year of submission, nor have the facts and evidence been additional presented to prove that it is a matter of such situation or that some kind of internal control has been executed in the meantime.

Due to such state in conditions when the reading of the water gauges has been envisaged and should be carried out, as one of the founding duties of the service provider, the legitimacy of the obligation upon average consummation is being questioned, because it burdens the service users



and in almost all cases damages them. In this part, this PE has introduced internal procedure according to which the objections and remarks of the citizens are being submitted to the Commission for disputable bills which almost always answers negatively without respecting the rules of procedure whatsoever. This Commission does not adopt decisions formed as solution to which the citizens would have the right to additional protection by complaint or some other legal remedy.

Therefore in the case operation, with no exception, in all such cases, the Ombudsman has pointed the need of annulment of the averagely prepared bills and their replacement with bills of the real situation, according to the state read on the water gauge.

Furthermore, the citizens have been sent warnings for loan in arrears which are general and do not contain any data on the debt of the user such as its base (main debt for used water or some other service, interest, expenses), the time period referred to, whether or not the user has been sued, in which phase and body is the case etc. Due to this, the citizens have been forced to require information regarding the debt form the PE, but received only incomplete and unclear responses only for the debt based on unpaid water bills, while for the debt that occurred as a result of the unmet responsibility to take and dispose of the communal waste the citizens have been referred to the PE "Communal Hygiene".

The Ombudsman, realizing that the irregular bill delivery remains to be a big problem for the citizens has given a direction for the need of timely delivery of the bills as well as the implementation of a continuous system to control the work of the collectors obliged to read the water gauges and distribute the bills. Also, it should be mentioned that the enterprise has considered the interventions given by the Ombudsman to give opportunities for a facilitated payment of the debt due to material position of the citizens and the obviously decreased economic power.

Regarding the services related to the gathering and transportation of the communal waste for certain citizens as a problem the obligation for a service which is actually not used on the pointed parts and residential areas due to lack of containers or other vessels due to which the waste is not being collected, represents a big problem. Upon the intervention given by the Ombudsman, part of these citizens were relieved of the old debt, but a significant number of citizens whose debt on this basis has not been signed off explaining that the communal enterprise has performed its services in that area.

This refers to the citizens for who the calculation for this payment had been performed for a larger area conformed in the property documents as well as for those obliging for residential units which are not functional or used at all. Certain citizens, also, are being forced to pay debts of several ears although the regular activities of the enterprise with the prescribed dynamics have started much later. However, aside to this situation, the communal enterprise relieves the citizens only from the day of requesting which is not fully justified, referring to the civil responsibility to timely report any change of the residential unit.

Aside to this, the tendency of the enterprise to enter the regular payments of the citizens for different months for which they have not been entered, continues this reporting year as well. Such operation is harming the citizens considering that not all service users keep the bills for the performed payment from the last years and cannot prove it, and does not have the responsibility of creating an archive.

Most of the complaints of the citizens, submitted to the Ombudsman against EVN Macedonia AD Skopje (EVN), referred to interventions for start up to the network for distribution of electricity and facilitating the manner of payment of the loan in arrears.

The Ombudsman, acting upon these complaints has concluded that the actions taken by EVN are not in compliance with the general conditions of electricity delivery, i.e. the citizens have been plugged off the network due to unpaid bills for consumed electricity some of which refer to several years back. Considering the hard economic state the citizens are in, the Ombudsman intervened in EVN to enable the consumers to start up again by paying part of the debt and the rest of it would be paid with a concluded agreement on installments with smaller annuity. Unlike last year, EVN has called these persons and expressed its readiness to offer them agreements to pay the debt on installments although in certain cases they have been unacceptable because the amount of the

separate installment is larger than the monthly incomes of the users.

The Ombudsman has intervened in EVN to implement decisions for debt sign off adopted in compliance with the provisions of the Law on single debt sign off and in that segments he concluded certain omissions in its implementation. Namely, due to incomplete determination of the actual situation and visible omissions in the procedure by the competent commissions of the Ministry of Labor and Social Policy emerging from the lack of coordination with EVN, certain persons, even though their debt has been signed off, have debts again which should have been subjected to the sign off because they are covered by the provisions of this law. Also, EVN has insisted to their payment only through using the monopoly position conditioning the users.

The number of complaints for collection of street lighting fee for populated areas with no street lighting system has been significantly reduced this reporting year. However, the general conclusion remains that this problem should be systematically resolved because in the practice although the consumers do not use such service due to lack of public lighting system, very few of the communities decide to relief the citizens of this payment. This problem does not escalate along with the citizens' anger only because of the lack of action by the Municipalities for the forceful collection of the recorded debt upon this base.

Regarding the heating energy supply, the Ombudsman has concluded that the anger of the excluded citizens due to obligation with the payment for engaged power (fixed part) from the payment for heating energy. However in conditions when it has been envisaged in the regulation, it is clear that the relief of this payment for this category of citizens is closely related only to the legal amendments which are being proposed but not accepted.

As a result, when it comes to the users of the heating energy, complaints have been submitted regarding the correct calculation of the heated area upon a report of faults in the system and the clarity of the bills (especially of the information referring to the number of active users and excluded users). The Ombudsman in all these cases has requested for proper explanations for the occurred problem and resolution of all such cases through additional control by the suppliers of heating energy on filed. According to the case interventions, the cases have started to resolve.

In the end, in direction of protection of their rights as consumers, they have submitted a number of complaints referring to the use of the services from the mobile and fixed phone operators. This has been due to the opinion that the service packages for which they have not obtained proper information have been imposed to them and they are forced to accept the imposed responsibilities, for the dissatisfaction from the quality degree, the manner of collection the payment for the service, the price of the service and the contents of the agreement and the established subscription relationship. In all such cases, the Ombudsman has requested an explanation and examination of the prepared invoices by the pointed operators and where possible actions and measures have been undertaken by the Agency for Electronic Communications and the State Market Inspectorate.



Conclusions

- A large number of cases in which there is an obligation upon average consumption and not according to the read condition of the water gauge, as well as obligation by debt or use of forceful collection even though it is not real and is not due to a used service;
- Irregular submission of the bill and submission of warnings for loan in arrears not containing data on the precise debt of the user and its basis;
- Lack of coordination and communication and information exchange between PE Water supply and drainage and the PE Communal Hygiene Skopje;
- Due to omissions and lack of coordination between the commissions in the Ministry of Labor and Social Policy, the competent institutions and the service providers to certain persons, although with adopted sign off decisions, the citizens have debts which should have been signed off;
- Continuous anger of the excluded citizens due to obligation with the compensation of engaged power (fixed part) from the heating energy contribution;
- Instead of actions to implement the given directions or recommendations of the Ombudsman, receipt of responses representing unilateral, subjective and tendentious chronological picture of the alleged actions undertaken by the services in the enterprises;
- Greater flexibility of the service providers regarding the payment of the loans in arrears in installments;
- The problem with the groundless collection of the street lighting fee still remains active and certain citizens pay for a service they have not received.

Recommendations

- The averagely prepared bills should be annulled and the users should be obliged to pay the water bills as well as the electricity and heating and other bills for the period when such services have been used according to the read state of the gauge;
- The use of the monopoly position along with the omissions and weaknesses in the operation of the services and administrative officer, should in any case harm the service users and their legitimate rights and interests;
- Normative assumptions for regular read of the gauges should be created as a single control mechanism of the correct consumption;
- Timely delivery of the bills and continuous informing of the citizens on the loans in arrears and introduction of an efficient system for control over the operation of the persons been obliged to read the gauges and distribute the bills, due to avoidance of additional costs for the citizens followed by the forceful collection;
- Continuation of the introduce flexibility in order to enable payment of the debts on installments with smaller annuities, and the state through proper programs should raise the amount of subventions for a certain type of energy considering the hard financial and material situation certain users are in;
- Activities should be undertaken to sign off the debt of persons who have not used the service and its direction to the actual users, through internal procedures and adoption of decisions by the managing bodies of the public enterprises such as EVN and the other operators;
- The obligation with the contribution for engaged power (fixed part) from the contribution for heating energy for the excluded consumers should be reexamined.

NON-DISCRIMINATION

In the RM there is an exhaustive legal framework for anti-discrimination, but in the practice there is still presence of discriminatory behavior, especially in the areas of the social living which are especially significant and sensitive for the realization of the rights of the citizens.

The still present prejudices and stereotypes toward certain social groups (communities) or individuals are the main reasons for discrimination. Such behaviors, sometimes direct, and often indirectly have the goal to make divisions and unequal treatment of the citizens, i.e. lead to different actions toward individuals and certain groups in same or similar situations.

Acting upon cases in the area of protection against discrimination, the Ombudsman in 2015 has determined that their number is almost the same as the last year and the cases referring to ethnic discrimination are being most common, then discrimination in the working relationship, complaints regarding the complaint of the affirmative principle of adequate and equitable representation, as well as harassment protection (mobbing) in the work place.

In all cases, the Ombudsman has pointed to prohibition of all forms of discrimination and has reminded of the responsibility to implement the affirmative and proper representation. In most cases the interventions of the Ombudsman have been accepted, while upon the cases in which the citizens have complained against discrimination on ethnic basis due to restriction of the freedom of movement and their return to the state border by the Ministry of Interior not one recommendation has been accepted, although there is no doubt in the confirmation of violation of the right to freedom of movement of the Roma community. Also, the situation with the restriction of the right to freedom of movement of the citizens has not been notably changed which is confirmed by the courage of the citizens to protect their rights in a court procedure. The adoption of several enforced verdicts confirming the conclusions of the Ombudsman for discrimination by the police officers at the border crossing points is an act for salutation, for which the Ministry of Interior has been notified in a Special report as well as the Government of the RM.

In context of this problem and in order to diligently apply the prescriptions, the Ombudsman, in cooperation with the OSCE mission in Skopje and the Helsinki Committee for human rights, during 2015 has organized a conference on the following topic "Restriction of the right to freedom of movement of the Roma people on the border crossing points" at which aside to the Ombudsman , part has been taken by representatives from the Ministry of Interior, the European Commission against racism and intolerance with the Council of Europe, OSCE, ODIHR, the Helsinki Committee for human rights and KHAM Delcevo, referring to the phenomenon of racial profiling and discrimination of the Roma people at the border crossing points and in the same time, the situations in the region and beyond have been comparatively presented In accordance with the international standards which have been largely incorporated in the domestic legislation, considering the positive role which the state bodies are obliged to perform in the fight against racial and ethnic discrimination and promotion of the human rights, democracy and rule of law, in order to provide and guarantee the rights and safety of all people equally, the participants at the Conference have given their recommendations which have been submitted to all relevant institutions in the RM. Among the other, the participants in the conference have recommended termination of the practice of systematic discrimination based on the ethnic membership and racial profiling of the Roma people on the border crossing points regardless of the personal prejudices and stereotypes of the authorized persons.

During 2015 there have been actions upon complaints submitted due to violation i.e. disrespect of the principle of adequate and equitable representation upon announced advertisements for employment, and the submitters have pointed that there has been a low level of representation of the members of the Albanian and Vlach community, considering that there is unequal treatment i.e. discrimination in the employment area. In this context the Ombudsman has intervened to the Constitutional Court of the RM, the Immigration Agency, the National Institution- National Gallery of the RM, as well as the Agency for food and veterinary.

Taking measures according to the determined competence, the Ombudsman from the above stated bodies gathers data on the total number of employees, the employees deployed on manag-





ing positions and the number of employees deployed on non- managing positions. These data have been requested from the aspect of complaint of the principle of adequate and equitable representation. In the same time, in direction of more efficient actions, there has been a conversation and examine action with the official and responsible officers. Upon the undertaken actions, it has been determined that in the Agency for food and veterinary, the realization of the principle for adequate and equitable representation is not satisfactory in general determining a low degree of representation of the members of the smaller communities on managerial positions.

Due to this situation the Manager of the Agency has received a direction who accepting it has notified the that the direction shall be realized with the preparation of the Annual plan and programme for employment and according to the procedure determined by the Law on Administrative Officers shall be diligently implemented the principle for adequate and equitable representation. Similar condition has been determined in the National Gallery and the Agency of Immigration due to which a recommendation to the managers has been submitted and they have notified that in the future measures shall be undertaken and consideration shall be paid to select and employ staff -which would be able to properly respond to the needs of the work posts to diligently apply the mentioned constitutional principle. Furthermore, the Ombudsman has determined that the constitutional principle for adequate and equitable representation of the members of all communities by the General Secretary of the Constitutional Court has not been implemented at all and that the situation regarding the representation of all communities, generally as well as regarding the managerial and non-managerial positions has remained unchanged and is on unsatisfactory level. Due to this situation the Ombudsman has submitted a recommendation to the General Secretary of the Constitutional Court that by the adoption of the amendment of the RM Constitution and the increase of the competences of the Constitutional Court, urgent activities shall be undertaken to properly staff the expert service.

Acting upon complaints for protection of the rights of the citizens due to harassment on the work place the Ombudsman has submitted directions to apply the provisions from the Law on protection from harassment at the work place and implementation of the procedure for mediation and protection from harassment. The directions have been accepted and the procedure has been implemented, thus protecting the citizens properly. In this context, the actions of the Ombudsman upon a complaint submitted by a specialist from a general hospital in Veles due to disrespect of his rights regarding the professional relations with elements from mobbing due to exclusion from the work process. Namely, the submitter of the complaint has stated that the manager of the hospital where he worked does not implement the decision, as well as in the findings and opinion of the Pension and Disability Insurance Fund, for work with short work time of 4 hours adopting a decision for determination of salary with a short work time and a salary of 85% from the difference between the salary realized for work with a shot work time and a salary that he would realize working full time. The submitter of the complaint has stated that since he has commenced the procedure for the realization of his rights, the manager of the hospital has excluded him from the work process for which he should receive financial contributions to the salary. Realizing the fully submitted documentation by the submitter and examination of the regulations determining this right, the Ombudsman has concluded that the authorized body has adopted an illegitimate decision due to which he has submitted a recommendation requesting to annul the initial decision and adoption of a new one by which the salary shall be paid in full., as well as direction for harassment at the work place (mobbing). During the procedure the manager initially refused to act upon the directions given from the Ombudsman, but upon a submitted direction not to pressure the submitter and his exclusion from the work process and the given facts on the need of legitimate actions, the manager of the institution has adopted a new Decision for payment of salary with a corrected percentage of full amount-100% thus enabling the submitter to realize his right.

Aside to the case operation, the Ombudsman has continued to monitor the regulation against discrimination as well as to participate in events, seminars and workshops for protection against discrimination and implementation of the principle for adequate and equitable representation. A representative from the Department for protection against discrimination has taken part in the task force for the preparation of a new Strategy for protection against discrimination, gibing active





contribution with precise remarks to the institutional adjustment and complaint of the activities deriving from it. In the same time the Ombudsman has prepared a special report on the review of the 8-10 periodical report of the RM in the part of the implementation and enforcement of the International Convention for Elimination of all Forms of Racial Discrimination submitted to the Committee for protection of human rights within the United Nations.

The equality between men and women has been guaranteed by the Constitution of the RM, due to which the country is obliged to establish policies of equal opportunities and nondiscrimination based on sex. In this context, the Article 9 of the Constitution of the RM envisages equality of the citizens of the RM regarding the freedoms and rights regardless of the sec, while the Law on Equal Opportunities of men and women, envisages creation of conditions for equality between the citizens, especially regarding the sex and prohibition of discrimination based on sex. Also, the same law prescribes the main and special measures for the establishment of equal possibilities and equal treatment of the women and men in all spheres of the social living. This law prohibits discrimination based on sex in the public and private sector with a direct focus on the employment segment. In the provision from Article 3 from the Law on Protection against discrimination, aside to the many stated basis, discrimination is been prohibited based on sex, education, while the further provisions prohibit each direct or indirect discrimination upon these two basis as well as encouragement or provocation of discrimination and assisting in discriminatory behavior.

Regarding the implementation of this responsibility, this reporting year the Ombudsman aside to the research on the realization of the situation of the implementation of the principle for adequate and equitable representation of the communities, has in the same time implemented a research on the sex and education structure of the employed in 1238 institutions 1202 from which have responded. All institutions have been asked to submit a table containing data regarding the sex (total number of selected and appointed persons, total number of managerial and non-managerial positions). As well as detailed image of the degree of education of the employees based on sex and their deployment on managerial and non-managerial positions regarding the degree of education (higher education, high education, high school and elementary education).

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

												LEVEL	OF E	DUCAT	ION								
	al Ioyees	Employees by gender M % F %				Н	igher e	ducatio	n	P	educa	ondar	У	Sec	ondary	educati	ion	Primary education					
	Tot	М	%	F	%	М	%	F	%	М	%	F	%	М	%	F	%	М	%	F	%		
Elected or nominated persons	2881	1575	54,67	1306	45,33	1544	53,59	1302	45,19	17	0,59			14	0,49	4							
Managerial job positions	8861	4843	54,55	4028	45,45	4169	47,04	3391	38,26	142	1,6	125	1,41	511	5,77	506	5,71	11	0,12	6	0,07		
Non-managerial job positions	108771	54941	50,51	53830	49,49	18594	17,09	27469	25,25	2705	2,49	3471	3,19	26276	24,16	19014	17,48	7366	6,77	3876	3,56		
Employees at the authority	120513	61349	50,51	59164	49,09	24307	20,17	32162	26,69	2864	2,38	3596	2,98	26801	22,24	19524	16,2	7377	6,12	3882	3,22		
	TOTAL		120	513			564	469	6460						463	25			11259				

From the analysis of the submitted data, we can see that from total number of 120.513 employees from the institutions, 61.349 are men (50,51%) and 59.164 (49,09%) are women. Regarding the selected and appointed persons we can conclude the representation of the female sex in the institutions amounts 1.306 (45,33%) while the representation of the male sex is 1.575 (54,67%). As well as the previous category of people, the proportion between the women and men on managerial positions is similar, and the representation of the female sex in the institutions is 4.038 (45,45%), while the representation of the male sex in 4.843 (54,55%). The proportion is strongly stressed regarding the non-managerial positions with female representation of 53.830 (49,49%) while the male representation is 54.941 (10,51%).

From a total number of 120.053 employed men and women in the administration, 56.469 (46,85%) are with a higher education, 6.460 (5,36%) are with a high education, 46.325 (38,43%) are with high school and 11.259 (9,34%) are with elementary school.

The data analysis shows that from a total number of 56.469 employees in the administration with higher education, 32.163 (26,69%) are women and 24.307 (20,17%) are men. In the catego-



ry of selected and appointed persons 1.302 (45,19%) of them are women, while 1.544 (53,59%) are men. The number of women on managerial positions is 3.391 (38,26%) and the number of men is 4.169 (47,04%) while the number of women on non-managerial positions is 27.469 (25,25%) and the number of men is 1.594 (17,09%).

The Ombudsman has concluded that this year the total number of women employed in the administration is smaller than the number of men, and their number is smaller in the managerial positions too. The number of women with higher education is significantly bigger compared to the men, but the trend of more men as selected and appointed persons and persons on managerial positions remains bigger compared to the number of women.

From a total number if 6.460 employees with high education, 3.596 (2,98%) are women and 2.864 (2,38%) from them are men. The number of selected and appointed persons does not include women while the number of men is 17 (0,59%). The number of women on managerial positions is 125 (1,41%) and the number of men is 142 (1,6%). The number of women on non-managerial positions is 3.471 (3,19%) and the number of men is 2.705 (2,49%).

Based on the stated data, the Ombudsman has concluded that in the administration there are more women with high education then men and there is no women as a selected or appointed person and the number of women on managerial positions is smaller.

From a total number of 46.325 employees in the administration with a high school diploma the number of women is 19.524 (16,20%) and the number of men is 26.801 (22,24%). The total number of women on managerial positions is 506 (5,71%) and the number of men is 511 (5,77%), while the number of women on not managerial positions is 19.014 (17,48%) and the number of men is 26.276 (24,16%).

The data analysis on the proportion of the men and women with a high school diploma shows that the members of the male sex are significantly more numerous than the members of the female sex.

There is a similar situation with gender representation regarding the elementary education, from total number of 11.259 employed with elementary education in the administration, 3.882 (3,22%) are women and 7.377 (6,12%) are men.

Considering this situation, the Ombudsman has determined sex inequality this reporting year as well, both based on the total number of employees and regarding the degree of education, due to which he pointed the need of measures and activities to respect the principle of equality between men and women i.e. proper deployment on the work posts based on sex and degree of education, especially on the managerial positions.

Conclusions

- The reversion of the citizens from the border crossing points, especially the members of the Roma community has continued in 2015.
 The discrimination has been concluded by the Ombudsman and has been confirmed by enforced court decisions, aside to the constant denying from the Ministry of Interior;
- There are not clear legal criteria upon which the border control acts which leads to subjectivity and violation of the rights of the citizens by the border police;

Recommendations

- The Ministry of Interior in its acting should respect the right to freedom of movement of all citizens equally and the restraining should be in line with the Constitution, the laws and the international agreements;
- Measures should be undertaken for a complete upgrade of the normative upon which the border police acts as well as determination of the responsibility of the officials to adopt explained decisions in writing

Conclusions

- In the employment and promotion process the constitutional principle adequate and equitable representation of the members of the smaller ethnic communities is not respected in full;
- There is a lack of quality trainings for enhancement of the capacities of the institutions for protection against discrimination (especially on managerial level), as well as informative and educational campaigns to enhance the consciousness of the citizens to recognize the discrimination in all shapes and the possibilities of protection.

Recommendations

- about the unpermitted exit from the country providing legal safety and further protection of the civil rights;
- The principle of adequate and equitable representation in the employment process and promotion of members of the smaller ethnic communities should be diligently implemented in all plans and programs;
- The consciousness of the managers and employees on discrimination should be enhanced through continuous educational contents and workshops by the competent state bodies.

ADEQUATE AND EQUITABLE REPRESENTATION

One of the founding values guaranteed by the Constitution of the RM is the implementation of the principle of adequate and equitable representation of the members of the smaller communities.

The Ombudsman, according to the constitutionally determined competence, this as well as the previous reporting years, aside to the case actions in which the citizens complained to protect this principle, has executed a research on the degree of its complaint.

Prior to the approach of this exhaustive research, the Ombudsman has carried out an update of the institutions/facilities in the educational system, healthcare system, culture and local self-government so that the current data base show existence of 1.206 public institutions/facilities i.e. this reporting year their number has increased for 129, unlike last year when the number was 1.077.

In that context the Ombudsman has expressed a public criticism to the Ministry on Information Society and administration due to lack of data submission to be updated in the base of the public institutions/facilities, which has been requested in written during 2015.

Acting in this direction, as well as in the previous years, this reporting year the Ombudsman upon earlier prepared tables has addressed to the bodies of the state government, the independent bodies and organizations, the local self-government units, healthcare and cultural institutions, the courts and prosecutions and other institutions and services toward which he competently acts. The written requests along with the tables ready to be filled have been submitted to 1.206 institutions/ facilities 1.202 of which have submitted data and only 4, in spite of the written urgencies and phone contacts have not submitted answers. Data have not been received from the following schools "SS Cyril and Methodius" from the village of Burin- Kruse, "Naim Fraseri" from the village of Studenicani-Skopje, "Gerg Kastriot Skenderbeg" from the village of Aracinovo and the Faculty of Art in Tetovo, thus obscuring the operation of the Ombudsman. Regarding institutions which have not responded to the requests given by the Ombudsman, the entered data have not been updated and show the situation form last year. We stress that the Public Prosecution of the RM, in spite of our requests and directions on the need of submission of data exclusively for this institution, has submitted total data for all prosecutions in the RM, due to which the data on the prosecution have been taken from last year.



Full table review of 2015

			Maced	onian	Alba	nian	Tu	rk	Ron	па	Se	rb	Vla	ch	Bosr	niak	Oth	er
		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
	Elected or nominated persons	5	4	80,0	1	20,0				- 0.		- 0 -		- 61		- 61		-
Cabinet of the	Managerial job positions	15	13	86,7	2	13,3												
President of RM -	Non-managerial job positions	30	24	80,0	2	6,7	1	3,3	1	3,3			2	6,7				
Expert Service	Employees at the authority	50	41	82,0	5	10,0	1	2,0	1	2,0			2	4,0				
	Elected or nominated persons	4	3	75,0	1	25,0												
	Managerial job positions	52	38	73,1	13	25,0	1	1,9										
Parliament of RM - Expert Service	Non-managerial job positions	221	154	69,7	58	26,2	2	0,9	2	0,9	3	1,4			2	0,9		
Expert Service	Employees at the authority Elected or nominated persons	277	195	70,4 37,5	72	26,0 37,5	3	1,1	1	0,7 12,5	3	1,1	1	12,5		0,7		
	Managerial job positions	23	16	69,6	4	17,4				12,5	1	4,3	1	4,3	1	4,3		
	Non-managerial job positions	43	11	25,6	24	55,8	1	2,3	2	4,7	2	4,7	1	2,3	2	4,7		_
The Ombudsman	Employees at the authority	74	30	40,5	31	41,9	1	1,4	3	4,1	3	4,1	3	4,1	3	4,1		_
	Elected or nominated persons	7	5	71,4	2	28,6		-,-		-,-	_	-,-		-,-		-,-		
	Managerial job positions	5	5	100,0		20,0												
State Commission for Prevention from	Non-managerial job positions	18	13	72,2	3	16,7					1	5,6	1	5,6				_
Corruption	Employees at the authority	30	23	76,7	5	16,7					1	3,3	1	3,3				
	Elected or nominated persons	9	6	66,7	2	22,2	1	11,1										
	Managerial job positions	10	9	90,0		,-		,-			1	10,0						
Constitutional Court of	Non-monographic hospitions	13	12	92,3	1	7,7						0,0						
RM	Employees at the authority	32	27	84,4	3	9,4	1	3,1			1	3,1						
	Elected or nominated persons	13	7	53,8	4	30,8		-,-				-,-	2	15,4				
		14	11	78,6	_	00,0					2	14,3		10,4			1	7
	Managerial job positions				_				_									7,
	Non-managerial job positions	18	15	83,3	1	5,6	1	5,6			1	5,6						0,
Judicial Council of RM	Employees at the authority	45	33	73,3	5	11,1	1	2,2			3	6,7	2	4,4			1	2,
	Elected or nominated persons	11	11	100,0														
	Managerial job positions	1	1	100,0														
Higher Administrative	Non-managerial job positions	12	9	75,0	3	25,0												
Court	Employees at the authority	24	21	87,5	3	12,5												
	Elected or nominated persons	29	19	65,5	8	27,6	1	3,4							1	3,4		
	Managerial job positions	1	1	100,0														
	Non-managerial job positions	59	46	78,0	9	15,3	3	5,1			1	1,7				0,0		
Administrative Court of RM	Employees at the authority	89	66	74,2	17	19,1	4	4,5			1	1,1			1	1,1		
OT TAIN							_	4,5				1,1				1,1		_
	Elected or nominated persons	19	13	68,4	6	31,6												
	Managerial job positions	7	6	85,7		0,0								14,3				
	Non-managerial job positions	61	57	93,4	1	1,6					2	3,3	1	1,6				
Supreme Court of RM	Employees at the authority	87	76	87,4	7	8,0					2	2,3	2	2,3				
	Elected or nominated persons	10	7	70,0	3	30,0												
	Managerial job positions	6	5	83,3									1	16,7				
Public Prosecution of	Non-managerial job positions	24	18	75,0	4	16,7			1	4,2	1	4,2		0,0				
RM /2013	Employees at the authority	40	30	75,0	7	17,5			1	2,5	1	2,5	1	2,5				
	Elected or nominated persons	34	32	94,1	2	5,9												
	Managerial job positions	4	4			-7-												
	Non-managerial job positions	76	54	71,1	17	22,4	1	1,3			2	2,6			2	2,6		
State Attorney of Das																		
State Attorney of RM	Employees at the authority	114	90	78,9	19	16,7	1	0,9			2	1,8			2	1,8		
	Elected or nominated persons	10	5	50,0	2	20,0	1	10,0			2	20,0						
	Managerial job positions	1	1	100,0														
Public Prosecutors	Non-managerial job positions	5	5	100,0														
Council	Employees at the authority	16	11	68,8	2	12,5	1	6,3			2	12,5						
	Elected or nominated persons	4	3	75,0	1	25,0						0,0						
	Managerial inh positions	128	117	91,4	5	3,9					3	2,3	3	2,3				
	Managerial job positions																	
	Non-managerial job positions	305	261	85,6	28	9,2	3	1,0			8	2,6	4	1,3			1	0,



		-	Macad	onior	Alba			ATE AI					1//-		Pess	nia!	04	0.5
		-	Maced	onian	Albai	nian	Tu	rĸ	Ror	na	Sei	'D	Vla	cn	Bosr	пак	Oth	er
		Total	Total		Total		Fotal		Total		otal		otal		rotal		Total	
	Elected or nominated person	<u>F</u> 7	<u>⊬</u> 5	71,4	2	28,6	Ĕ	%	Ĕ	%	Ĕ	%	Ĕ	%	Ĕ	%	Ĕ	%
	Managerial job positions	22	12	54,5	8	36,4											2	9,
State Election	Non-managerial job positions	73	46	63,0	22	30,1							4	5,5			1	1,
Commission - Expert Service	Employees at the authority	102	63	61,8	32	31,4							4	3,9			3	2,
Jei vice	Elected or nominated persons	102	63	01,0	32	31,4							4	3,9			3	۷,
	Managerial job positions	10	10	100,0														
Macedonian Academy	Non-managerial job positions	59	54	91,5	2	3,4	1	1,7			2	3,4						
of Sciences and Arts	Employees at the authority	69	64	92,8	2	2,9	1	1,4			2	2,9						
	Elected or nominated person	11	8	72,7	3													
	Managerial job positions					,-												
Pagial Bublia	Non-managerial job positions																	
Special Public Prosecution	Employees at the authority	11	8	72,7	3	27,3												
	Elected or nominated person	6	5	83,3	1	16,7												
	Managerial job positions	901	758	84,1	108	12,0	5	0,6	2	0,2	21	2,3	3	0,3	1	0,1	3	0,
	Non-managerial job positions		8080	76,7	2064	19,6	101	1,0	75	0,7	147	1,4	14	0,3	34	0,1	19	0,
linistry of Interior																		
Affairs	Employees at the authority	11441	8843	77,3	2173	19,0	106	0,9	77	0,7	168	1,5	17	0,1	35	0,3	22	0,
	Elected or nominated person	4	2	50,0	1	25,0	- 4	2.0			1	25,0			4	2.0		
	Managerial job positions	51 95	29 40	56,9 42,1	20 43	39,2 45,3	5	2,0 5,3	1	1,1	1	1,1	2	2,1	2	2,0	1	1,
linistry of Economy	Non-managerial job positions Employees at the authority	150	71	47,3	64	42,7	6	4,0	1	0,7	2	1,1	2	1,3	3	2,1	1	0,
initially of Economy	Elected or nominated person	4	4	100,0	04	42,1	0	4,0		0,1		1,3		1,3		2,0		υ,
	·					45.4					4	1.0	2	2.0				
linistry of	Managerial job positions	53	42	79,2	8	15,1			_		1	1,9		3,8	_	4.0		_
nvironment and	Non-managerial job positions	168	95	56,5	64	38,1	1	0,6	1	0,6	3	1,8		0,0	2	1,2	2	1,
patial Planning	Employees at the authority	225	141	62,7	72	32,0	1	0,4	1	0,4	4	1,8	2	0,9	2	0,9	2	0,
	Elected or nominated person	2	1	50,0	1	50,0												
	Managerial job positions	39	34	87,2	4	10,3											1	2,
	Non-managerial job positions	93	48	51,6	40	43,0	1	1,1	1	1,1	1	1,1	1	1,1	1	1,1		0,
linistry of Health	Employees at the authority	134	83	61,9	45	33,6	1	0,7	1	0,7	1	0,7	1	0,7	1	0,7	1	0,
	Elected or nominated person	7	3	42,9	3	42,9	1	14,3										
linistry of Agriculture,	Managerial job positions	121	111	91,7	8	6,6					1	0,8					1	0,
orestry and Water	Non-managerial job positions	866	662	76,4	139	16,1	22	2,5	10	1,2	18	2,1	3	0,3	7	0,8	5	0,
conomy	Employees at the authority	994	776	78,1	150	15,1	23	2,3	10	1,0	19	1,9	3	0,3	7	0,7	6	0,
	Elected or nominated person	3	3	100,0														
linistry of Informatics	Managerial job positions	17	14	82,4	2	11,8					1	5,9	_	4.0			_	
ociety and Public	Non-managerial job positions	194	164	84,5	13	6,7	2		1	0,5	5	2,6	2	1,0	5	2,6	2	1,
dministration	Employees at the authority	214	181	84,6	15	7,0	2		1	0,5	6	2,8	2	0,9	5	2,3	2	0,
	Elected or nominated person	4	1	25,0	1	25,0	1	25,0			1	25,0						
	Managerial job positions	42	35	83,3	4	9,5	1	2,4			1	2,4	1	2,4				
	Non-managerial job positions	122	66	54,1	47	38,5			1	0,8	5	4,1	1	0,8	2	1,6		
linistry of Culture	Employees at the authority	168	102	60,7	52	31,0	2	1,2	1	0,6	7	4,2	2	1,2	2	1,2		
	Elected or nominated person	2	2	100,0		0,0		_				_						
	Managerial job positions	13	8	61,5	5	38,5												
liniotox of Lagar Calf	Non-managerial job positions	38	10	26,3	24	63,2							1	2,6	3	7,9		
linistry of Local Self Sovernment	Employees at the authority	53	20	37,7	29	54,7							1	1,9	3	5,7		
	Elected or nominated person	45	38	84,4	2	4,4	1	2,2			3	6,7		1,0	-	0,1	1	2,
													_	4.0				
	Managerial job positions	166	113	68,1	24	14,5	12	7,2	-		13	7,8	2	1,2			2	1,
linistry of Foreign	Non-managerial job positions	263	179	68,1	72	27,4	4	1,5	2	0,8	2	0,8	1	0,4	1	0,4	2	0,
Affairs	Employees at the authority	474	330	69,6	98	20,7	17	3,6	2	0,4	18	3,8	3	0,6	1	0,2	5	1,
	Elected or nominated person	4	2	50,0			1	25,0	1	25,0								
	Managerial job positions	26	20	76,9	5	19,2					1	3,8						
Ministry of Education	Non-managerial job positions	212	114	53,8	71	33,5	7	3,3	4	1,9	9	4,2	2	0,9	5	2,4		





		-								QUITABI								
		_	Maced	onian	Alba	nian	Tu	rk	Ro	ma	Ser	b	Vla	ch	Bosr	niak	Oth	er
		=	=		=		=		=		=		=		=		=	
		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
	Elected or nominated person	3	2	66,7	1	33,3												
	Managerial job positions	87	76	87,4	8	9,2					2	2,3	1	1,1				
	Non-managerial job positions	897	704	78,5	127	14,2	12	1,3	6	0,7	17	1,9	8	0,9	7	0,8	16	1,8
Ministry of Defense	Employees at the authority	987	782	79,2	136	13,8	12	1,2	6	0,6	19	1,9	9	0,9	7	0,7	16	1,6
	Elected or nominated persons																	
	Managerial job positions	36	31	86,1	3	8,3					1	2,8			1	2,8		
	Non-managerial job positions	189	98	51,9	78	41,3	3	1,6	4	2,1	1	0,5	3	1,6	1	0,5	1	0,5
Ministry of Justice	Employees at the authority	225	129	57,3	81	36,0	3	1,3	4	1,8	2	0,9	3	1,3	2	0,9	1	0,4
	Elected or nominated person	4	3	75,0	1	25,0												
	Managerial job positions	70	61	87,1	7	10,0	1	1,4			1	1,4						
Ministry of Transport	Non-managerial job positions	212	162	76,4	29	13,7	5	2,4	4	1,9	4	1,9	1	0,5	5	2,4	2	0,9
and Communications	Employees at the authority	286	226	79,0	37	12,9	6	2,1	4	1,4	5	1,7	1	0,3	5	1,7	2	0,7
	Elected or nominated person	5	3	60,0			1	20,0	1	20,0								
	Managerial job positions	47	38	80,9	3	6,4			3	6,4	1	2,1	2	4,3				
Miniatory of Labor and	Non-managerial job positions	304	224	73,7	55	18,1	3	1,0	9	3,0	6	2,0	5	1,6	1	0,3	1	0,3
Ministry of Labor and Social Policy	Employees at the authority	356	265	74,4	58	16,3	4	1,1	13	3,7	7	2,0	7	2,0	1	0,3	1	0,3
	Elected or nominated person	5	4	80,0	1	20,0	_	.,.		0,1		2,0		2,0		0,0	÷	0,0
	Managerial job positions	106	95	89,6	7	6,6	1	0,9					3	2,8				
										0.5		0.0				0.5	4	0.0
	Non-managerial job positions	594	510	85,9	65	10,9	4	0,7	3	0,5	5	0,8	3	0,5	3	0,5	1	0,2
Ministry of Finances	Employees at the authority	705	609	86,4	73	10,4	5	0,7	3	0,4	5	0,7	6	0,9	3	0,4	1	0,1
	Elected or nominated person	80	1	50,0	1	50,0	_	2.5	4	4.2	4	4.2			4	4.2		
	Managerial job positions	367	70 192	87,5 52,3	13	6,3 3,5	67	2,5 18,3	56	1,3 15,3	22	1,3 6,0	8	2,2	8	1,3	1	0,3
General Secretariat	Non-managerial job positions Employees at the authority	449	263	58,6	19	4,2	69	15,4	57	12,7	23	5,1	8	1,8	9	2,2	1	0,3
	Elected or nominated person	1	1	100,0	10	7,2	- 00	10,4	01	12,7		0,1		1,0		2,0	<u> </u>	0,2
	Managerial job positions	11	11	100,0														
	Non-managerial job positions	391	361	92,3	16	4,1	2	0,5	5	1,3	3	0,8	2	0,5	2	0,5		
General Services Department		403	373	92,6	16	4,0	2	0,5	5	1,2	3	0,7	2	0,5	2	0,5		
Department	Employees at the authority	403			10	4,0		0,5	5	1,2	3	0,7		0,5		0,5		
	Elected or nominated person		1	100,0									_					
	Managerial job positions	12	11	91,7									1	8,3				
	Non-managerial job positions	13	10	76,9	3									0,0				
Legislation Secretariat	Employees at the authority	26	22	84,6	3	11,5							1	3,8				
	Elected or nominated person	1			1	100,0												
	Managerial job positions	28	20	71,4	6	21,4							1	3,6			1	3,6
Secretariat for	Non-managerial job positions	73	42	57,5	20	27,4	2	2,7	2	2,7	2	2,7	3	4,1	1	1,4	1	1,4
European Issues	Employees at the authority	102	62	60,8	27	26,5	2	2,0	2	2,0	2	2,0	4	3,9	1	1,0	2	2,0
	Elected or nominated persons																	
Secretariat for	Managerial job positions	42			39	92,9	1	2,4							2	4,8		
Implementation of the	Non-managerial job positions	1814	25	1,4	1560	86,0	128	7,1	76	4,2	7	0,4	1	0,1	17	0,9		
Framework Agreement	Employees at the authority	1856	25	1,3	1599	86,2	129	7,0	76	4,1	7	0,4	1	0,1	19	1,0		
	Elected or nominated person	33	23	69,7	7	21,2	1	3,0			1	3,0	1	3,0				
	Managerial job positions																	
Higher Public	Non-managerial job positions	51	45	88,2	5	9,8	1	2,0										
Prosecutions	Employees at the authority	84	68	81,0	12	14,3	2	2,4			1	1,2	1	1,2				
	Elected or nominated person	138	115	83,3	18	13,0	2	1,4					1	0,7	2	1,4		
	Managerial job positions	5	5	100,0		,-		-,,-						-,-		-,-		
	Non-managerial job positions	267	215	80,5	34	12,7	6	2,2	2	0,7	3	1,1	5	1.0	1	0,4	1	0,4
Basic Public														1,9				
Prosecutions	Employees at the authority	410	335	81,7	52	12,7	8	2,0	2	0,5	3	0,7	6	1,5	3	0,7	1	0,2
	Elected or nominated person	89	64	71,9	20	22,5	2	2,2					1	1,1			2	2,2
	Managerial job positions	5	4	80,0	1	20,0												
	Non-managerial job positions	240	199	82,9	25	10,4	2	0,8			3	1,3	9	3,8	1	0,4	1	0,4
Appellate Courts	Employees at the authority	334	267	79,9	46	13,8	4	1,2			3	0,9	10	3,0	1	0,3	3	0,9



			Maced	onian	Albai	nian	Tu	rk	Ro	ma	Sei	rb	Vla	ch	Bosi	niak	Otl	ner
		<u> </u>	<u>.</u>		<u>.</u>		- E		<u> </u>		Ē		Ē		<u> </u>		<u>e</u>	
		Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Tota	%	Total	%
	Elected or nominated persons	430	346	80,5	56	13,0	3	0,7	1	0,2	8	1,9	6	1,4	6	1,4	4	0,9
	Managerial job positions	24	21	87,5	3	12,5												
	Non-managerial job positions	1969	1576	80,0	272	13,8	36	1,8	24	1,2	20	1,0	25	1,3	7	0,4	9	0,5
Basic Courts	Employees at the authority	2423	1943	80,2	331	13,7	39	1,6	25	1,0	28	1,2	31	1,3	13	0,5	13	0,5
	Elected or nominated persons	2	1	50,0	1	50,0												
	Managerial job positions	156	111	71,2	40	25,6	1	0,6			2	1,3	2	1,3				0,0
	Non-managerial job positions	1337	1025	76,7	251	18,8	10	0,7	4	0,3	18	1,3	23	1,7	1	0,1	5	0,4
Funds	Employees at the authority	1495	1137	76,1	292	19,5	11	0,7	4	0,3	20	1,3	25	1,7	1	0,1	5	0,3
	Elected or nominated persons	23	17	73,9	6	26,1												
	Managerial job positions	47	34	72,3	11	23,4	1	2,1									1	2,1
Centers for Social	Non-managerial job positions	1017	780	76,7	161	15,8	15	1,5	26	2,6	10	1,0	14	1,4	4	0,4	7	0,7
Work	Employees at the authority	1087	831	76,4	178	16,4	16	1,5	26	2,4	10	0,9	14	1,3	4	0,4	8	0,7
	Elected or nominated persons	104	79	76,0	14	13,5	10	9,6			1	1,0						
	Managerial job positions	712	528	74,2	147	20,6	12	1,7	2	0,3	8	1,1	3	0,4	2	0,3	10	1,4
Local Self Government	Non-managerial job positions	5017	3779	75,3	941	18,8	101	2,0	37	0,7	78	1,6	34	0,7	12	0,2	35	0,7
Units	Employees at the authority	5833	4386	75,2	1102	18,9	123	2,1	39	0,7	87	1,5	37	0,6	14	0,2	45	0,8
	Elected or nominated persons	20	13	65,0	7	35,0												
Penitentiarycorrection al and	Managerial job positions	27	22	81,5	4	14,8					1	3,7						
Educationalcorrection	Non-managerial job positions	793	674	85,0	95	12,0	2	0,3	5	0,6	7	0,9	10	1,3				
al Institutions	Employees at the authority	840	709	84,4	106	12,6	2	0,2	5	0,6	8	1,0	10	1,2				
	Elected or nominated persons	162	92	56,8	50	30,9	8	4,9	3	1,9	1	0,6	4	2,5	2	1,2	2	1,2
	Managerial job positions	1076	920	85,5	107	10,0	11	1,0	1	0,1	17	1,6	9	0,8	4	0,4	7	0,7
Independent state	Non-managerial job positions	10665	8053	75,5	1982	18,6	194	1,8	86	0,8	132	1,2	91	0,9	43	0,4	84	0,8
bodies	Employees at the authority	11903	9065	76,1	2139	18,0	213	1,8	90	0,8	150	1,3	104	0,9	49	0,4	93	0,8
	Elected or nominated persons	109	83	76,1	21	19,3	1	0,9			4	3,7						
	Managerial job positions	1317	1084	82,3	169	12,8	14	1,1	6	0,5	18	1,4	17	1,3	4	0,3	5	0,4
	Non-managerial job positions	16242	12276	75,6	2270	14,0	315	1,9	804	4,9	256	1,6	83	0,5	92	0,6	146	0,9
Public enterprises	Employees at the authority	17668	13443	76,1	2460	13,9	330	1,9	810	4,6	278	1,6	100	0,6	96	0,5	151	0,9
	Elected or nominated persons	119	90	75,6	21	17,6					5	4,2	1	0,8			2	1,7
	Managerial job positions	2493	2080	83,4	246	9,9	32	1,3	1	0,0	64	2,6	34	1,4	14	0,6	22	0,9
	Non-managerial job positions	16558	13496	81,5	2036	12,3	188	1,1	193	1,2	305	1,8	86	0,5	98	0,6	156	0,9
Public Health	Employees at the authority	19170	15666	81,7	2303	12,0	220	1,1	194	1,0	374	2,0	121	0,6	112	0,6	180	0,9
	Elected or nominated persons	223	148	66,4	58	26,1	6	2,7			6	2,7	2	0,9	1	0,4	2	0,9
	Managerial job positions	210	112	53,3	80	37,9	13	6,2	1	0,5					1	0,5	3	1,4
	Non-managerial job positions	19218	12504	65,1	5485	28,5	595	3,1	106	0,6	218	1,1	79	0,4	66	0,3	165	0,9
Elementary education	Employees at the authority	19651	12764	65,0	5623	28,6	614	3,1	107	0,5	224	1,1	81	0,4	68	0,3	170	0,9
,	Elected or nominated persons	71	57	80,3	12	16,9	014	0,1	101	0,0	2	2,8		0,1		0,0	110	0,0
	Managerial job positions	96	57	59,4	34	35,4	2	2,1			1	1,0	2	2,1				
	Non-managerial job positions	8133	5908	72,6	1870	23,0	124	1,5	24	0,3	117	1,4	52	0,6	12	0,1	26	0.2
High education		8300			1916							•		•				0,3
ngii education	Employees at the authority		6022	72,6		23,1	126	1,5	24	0,3	120	1,4	54	0,6	12	0,1	26	0,3
	Elected or nominated persons	917	764	83,3	105	11,5	5	0,5			13	1,4	7	0,8	3	0,3	20	2,2
	Managerial job positions	226	150	66,4	70	31,0					4	1,8					2	0,9
	Non-managerial job positions	1220	954	78,2	212	17,4	4	0,3	9	0,7	20	1,6	16	1,3	2	0,2	3	0,2
ligher education	Employees at the authority	2363	1868	79,1	387	16,4	9	0,4	9	0,4	37	1,6	23	1,0	5	0,2	25	1,1
	Elected or nominated persons	157	135	86,0	17	10,8			1	0,6	2	1,3	2	1,3				
	Managerial job positions	221	193	87,8	15	6,8	2	0,9	1	0,5	6	2,7					3	1,4
Institutions with	Non-managerial job positions	7588	6537	86,1	602	7,9	100	1,3	85	1,1	124	1,6	64	0,8	26	0,3	50	0,7
various activities	Employees at the authority	7966	3866	86.2	634	8.0	102	1.3	87	11	132	17	66	0.8	26	0.3	53	0.7



Employees at the authority



102 1,3 87

3866 86,2

634

8,0

			ADEQUATE AND EQUITABLE REPRESENTATION															
			Maced	onian	Alba	nian	Tu	rk	Roi	ma	Se	rb	Vla	ch	Bosn		Ot	her
		Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	
	Elected or nominated persons	2881	2234	77,5	467	16,2	46	1,6	8	0,3	50	1,7	28	1,0	15	0,5	33	1,1
	Managerial job positions	8861	7147	80,7	1225	13,8	113	1,3	18	0,2	173	2,0	89	1,0	32	4,0	64	0,7
	Non-managerial job positions	108771	80586	74,1	20959	19,3	2075	1,9	1672	1,5	1592	1,5	665	0,6	478	0,4	744	0,7
TOTAL	Employees at the authority	120513	89967	74,7	22651	18,8	2234	1,9	1698	1,4	1815	1,5	782	0,6	525	0,4	841	0,7
	2015	120513	89967	74,7	22651	18,8	2234	1,9	1698	1,4	1815	1,5	782	0,6	525	0,4	841	0,7
Data for comparison	2014	81387	74,8	20197	18,6	2045	1,9	1497	1,4	1689	1,6	716	0,7	482	0,4	835	0,8	

Comparing Table Overview 2007-2015

		Maced	onian	Albar	nian	Tui	rk	Ron	ma	Sei	rb	Vla	ch	Bos	niak	Oth	ner
Years	Total emplpyees	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
2015	120513	89967	74,7	22651	18,8	2234	1,9	1698	1,4	1815	1,5	782	0,6	525	0,4	841	0,7
2014	108848	81387	74,8	20197	18,6	2045	1,9	1497	1,4	1689	1,6	716	0,7	482	0,4	835	0,8
2013	108078	81406	75,3	19565	18,1	1976	1,8	1365	1,3	1700	1,6	710	0,7	447	0,4	909	0,8
2012	107851	81095	75,2	19151	17,8	2164	2,0	1383	1,3	1709	1,6	741	0,7	585	0,5	1023	0,9
2011	102103	77879	76,3	17598	17,2	1691	1,7	1304	1,3	1665	1,6	678	0,7	387	0,4	901	0,9
2010	82555	63761	77,23	13966	16,92	1340	1,62	574	0,70	1315	1,59	570	0,69	256	0,31	773	0,94
2009	69148	55266	79,92	9712	14,05	895	1,29	551	0,80	1301	1,88	524	0,76	259	0,37	640	0,93
2008	67728	55193	81,49	8642	12,76	825	1,22	527	0,78	1269	1,87	449	0,66	205	0,30	618	0,91
2007	59629	49923	83,72	6429	10,78	649	1,09	464	0,78	1050	1,76	405	0,68	201	0,34	508	0,85

Based on the data obtained from the research, it can be concluded that this reporting year, due to the increased number of covered institutions/facilities, the number of employees has been increased for 11.674 compared to last year. The data point that the number of employees compared to last year has increased almost in all institutions/facilities. This conclusion refers mostly to the Ministry of Interior, the Ministry of Agriculture, Forestry and Water Economy, the units of the local self-government, Ministry of Labor and Social Policy, the Ministry of Defense, the primary public prosecutions and public enterprises. Namely we emphasize, that the bigger difference from last year has occurred in the Ministry of Interior with a total number of 1.441 employees, pointing the 666 newly employed in this body during 2015.

Also we would point out that the data given in the table review refer exclusively to people who have a regular working relationship i.e. persons employed indefinitely.

Based on the data analysis the Ombudsman has concluded that there is a mild quantitative, i.e. illusive advancement in the complaint of the principle for adequate and equitable representation, but has also concluded existence of many institutions that have not reached the mandatory, i.e. satisfactory level of adequate and equitable representation. Such conclusion of the Ombudsman has been repeated for years and directs to the conclusion that in certain institutions the principle of adequate and equitable representation is being insufficiently applied, which is especially characteristic when the data on the representation of the members of the communities on managerial positions are being analyzed, as well as the total employees number and the employees on managerial positions.

On the other hand, just like previous years, the conclusion that the representation of all communities in the public prosecutions, penitentiary and correctional facilities and public health is still dissatisfactory and some institutions have a low degree of complaint of the principle for adequate





and equitable representation. This conclusion has been present regarding the total number of employees as well as regarding the number of employees consisted in the executive staff of the RM such as the Ministry of Finance, the General and Common Affairs Service within the Government of the RM and others.

Based on the analysis, the Ombudsman has worriedly concluded that years back there is a low quality complaint of the principle for adequate and equitable representation. The Ombudsman has once more publicly criticized that situation in the Secretariat for Implementation of the Framework Agreement where from a total number of 1.856 employees, 1.599 are members of the Albanian community (86,20%), 129 are Turkish, 76 are Roma people, 7 Serbians, 1 Vlach, 19 Bosnians and 25 Macedonians. The following situation has been detected in the National Bank of the RM, from a total number of 437 employees, the number of Macedonians is 381 or 87,20%, 34 are members of the Albanian community, 3 are Turkish and no Roma people, 11 Serbians, 9 Vlachs and no Bosnians, an occurrence also criticized by the Ombudsman.

In order to overcome the problem of low quality implementation of the principle of just and proper representation, the institutions need to undertake concrete measures and activities for affirmation and implementation of this constitutional principle and the Ombudsman will monitor this recommendation with stronger overview and direct visits.

Conclusions

- The constitutional principle of adequate and equitable representation of the members of all communities is not being properly and truly implemented;
- There are no visible changes in the implementation of this principle especially regarding the members of the communities out of the majority and their deployment on managerial positions.

Recommendations

- The institutions should take precise measures and activities for mandatory respect and actual implementation of the principle for adequate and equitable representation of the members of all communities;
- Affirmative measures should be undertaken for diligent realization of the principle for adequate and equitable representation especially regarding the smaller ethnic communities on managerial positions.



OTHER RIGHTS

A big number of complaints have been submitted by the citizens due to lack of response upon a submitted complaint or due to inaction upon their requests submitted to the bodies of the state administration and other bodies and organizations having public authorizations. The Ombudsman, acting upon these complaints has requested from the competent bodies to notify him on the reasons due to which there has not been action upon the requests of the citizens pointing their responsibility to respond in writing on the submitted complaint or complaint by the citizen, i.e. not to violate the right of the citizen to information or possible request for further protection of the rights.

The number of complaints in this reporting period has been significant, regarding the direct payments in the agriculture, i.e. the payment of the financial means based on the Programmer for Financial support in the agriculture. Upon the undertaken actions to examine each case individually, the Ombudsman has pointed to the agency for financial support in the agriculture and rural development that it is obliged, upon full and proper determination of the basis of the request of the submitters, to decide upon the request with a proper legitimate decision, accepted in all cases with no remarks.

Part from the complaints of the citizens referred to requests toward a subject beyond the competence of the Ombudsman. In these cases the submitters have advised on the state body they should address to protect their rights. The number of complaints submitted by legal entities has been smaller, and upon these complaints the Ombudsman has advised the legal entities on the manner and possibility to realize the right for which the intervention has been requested.

The Ombudsman has received complaints by citizens requesting only a legal advice on the realization of a certain right, i.e. the type of action and the measures to be undertaken if a certain body, institution/facility does not act or acts improperly. Acting upon these complaints the Ombudsman has advised the submitters on the manner and procedure to realize their rights reminding them on the possibility, upon an initiated procedure to realize a right to seek protection by the Ombudsman.

LOCAL SELF GOVERNMENT

The decentralization process enables the local problems of the people to be resolved through improvement of the services, increased participation by the citizens in the organization of the most significant areas of their life and also a bigger control over the activities undertaken by the local self-government.

From the action upon the complaints by the citizens and the monitoring of the condition in the areas within the competence of the local self-government, the Ombudsman through the six local offices has concluded that the conditions are not yet satisfactory and there is need of improvement of the quality of the public services given to the citizens by the local government and the problems of the citizens are not resolved quickly and effectively, among the other due to insufficiently of professional and ineffective municipal administration. Also there are no active measures undertaken by the local authorities to motivate the citizens to take active part in the social living locally thus continuing the trend of insufficiently transparent, explanatory and responsible operation on local level.

In this part of the Annual Report, the Ombudsman shall present the conclusions from the degree of realization of the rights of the citizens, separately and according to the areas within the competence of the local self-government.

Urbanism and construction

Spatial and urban planning is a continuous process which, with the adoption and implementation of spatial and urban plans secures organization and humanization of space and protection and advancement of environment and nature. Therefore, the preparation of urban plans should be based on previous analysis, on site insight, that is, insight on the area covered with the plan, whilst abiding by the main principles for more quality living area and the citizens' interest and will.

By following the situation in this area, and acting in accordance with the submitted complaints, the Ombudsman has established that the issue relating to area planning in interest of the citizens is not always taken into consideration. During the reporting period, there were reactions by the citizens regarding the presentation of the Detailed Urban Plans by the local authorities, and there were disagreements with their adoption by the municipalities. Although the Law on Spatial and Urban Planning envisages the public survey as tool to be used by the residents of the urban area limits so as to influence the decisions of the municipality on the construction plan, conditions and facilities to be built, this phase of the Law is only formally treated in practice.

Regarding the detailed urban plans in several municipalities, actions were taken by the district offices of the Ombudsman due to delayed procedures for adoption of detailed urban plans by the local authorities, due to non-submission of notification on submitted comments at the public survey or requests by the citizens in this sphere, etc. Within the frames of the above stated, according to the Ombudsman intervention, the citizens of the Tetovo municipality who reacted in writing on the changes of the detailed urban plan in the municipality which envisaged construction of residential housing facilities, were answered by the municipality with partial acceptance of their comments in the part relating to regulation of residential buildings floors. In another case, according to the submitted complaint of a group of citizens from Bitola, the Ombudsman has established that without changing the detailed urban plan, for the same Cadastre plot, the construction area envisaged individual residential building, whereas the Excerpt from the Plan of 2014 envisaged green areas. After undertaking actions, the competent department of the Bitola municipality has informed the Ombudsman that the Excerpt of the Plan of 2014 is valid, whilst more detailed explanations on the reason resulting into plan error could not have been provided, since such Excerpts are with archive duration of 6 months.

The Ombudsman finds such "errors" of the municipal administration as unacceptable, in particular if errors are made in acts which produce certain rights, as in the case relating to the right to construction which, inter alia, results into legal uncertainty of the citizens and mistrust in the operations of the municipal administration, due to which it is necessary to stop such manner of working and acting.

In reference with the detailed urban plan, the Ombudsman has intervened in accordance with the complaint of the citizen of Ohrid municipality, due to unfounded delay of the procedure for amendments of the detailed urban plan for part of the urban community which commenced several years ago. The Ombudsman has established that the plan adoption procedure commenced in 2008 and the same is still not finished, whereas the explanation of the mayor that this is due to the inclusion of bigger part of the central city area and the amended legislation requiring consent to be obtained from other institutions is not fully justified. According to the Ombudsman, although the Law on Spatial and Urban Planning, valid in the time of commencement of the procedure, does not envisage the timeframe for taking actions and preparation of the Report by the Commission, the one should have complied with the principle of efficiency when performing works of its competence. In addition, if the draft plan with accepted comments of the public survey was subjected to significant changes, the municipality mayor should have again conduct a public presentation and public survey for the draft plan with implemented comments, which was not carried out in this case. In the meantime, as of 2008, when the procedure for adoption of amendments for the detailed urban plan has commenced, the Law had seven amendments and supplementing, which, undoubtedly contributes to the procedure complexity, as well as legal insecurity of the citizens and other entities interested in the urban solutions envisaged in the plan.





According to the Ombudsman, it is legally invalid for the Commission to prepare a Report on the submitted questionnaires of the citizens during the public survey held at the end of 2012 or the beginning of 2013, when following the survey completion and the plan presentation, certain changes were made of the Cadastre basis and new geodetic report was prepared, thus changing the actual situation and the urban decisions offered in the draft plan.

Citizens have submitted complaints to the district offices of the Ombudsman due to obstruction of the rule of governance with their properties, in which context, interventions were required so that the local authorities would commence the administrative execution of decisions for removal of informal buildings.

Acting in accordance with these complaints, the Ombudsman has concluded that the situation has slightly changed as compared with the previous years, that is, the non-implementation is further continuing, or the local authorities are rarely implementing procedures for forced administrative execution of executive administrative acts for removal of informal constructed facilities. Again, as explanation to the above stated, the lack of funds is indicated or the uncompleted public procurement procedure for conclusion of a contract with licensed contractor for removal of informal buildings. The former is confirmed with the case in Strumica, in which the Ombudsman has concluded that a decision was adopted for removal of an informal building in 2013, whereas its realization was envisaged in the plan for administrative execution of decisions for June and July 2015. In other words, in this municipality, the realization of the decision was authorized as well as the execution conclusion after a period of two years has expired, in which period the citizen was forced to endure the damages of the informal building.

The Ombudsman, acting in accordance with the complaints, has submitted requests to the municipalities asking for explanations and answers to the question why the administrative acts for removal of informal buildings adopted in August 2011 are not being executed, on which the one was answered, specifically by the Bogovinje municipality, that ongoing is the public procurement procedure for selection of a contractor for removal of informal buildings in the municipality, that is, following the procedure completion and following the contract conclusion, the mayor of the municipality shall prepare a plan and establish the dynamics for all adopted decisions for removal of informal buildings.

The municipality of Ohrid is also facing the inability to enforce valid decisions for removal of informal buildings, where the economic operator for removal of informal buildings is still not selected, as well as the municipality Kumanovo which, during the actions taken on the complaints on this basis, has informed the Ombudsman that the administrative removal shall be executed following the completion of the already initiated tender procedure for selection of a legal entity for administrative execution.

Taking into consideration the complaints of the citizens of Vasilevo municipality, the Ombudsman has concluded that the municipality is lacking authorized civil engineering inspectors, which implies the inability to act in accordance with the citizens' complaints or, it is the reason behind the delayed procedures for dealing with facilities being built, and for which there is reasonable doubt that construction activities are carried out without possession of a construction authorization. Following the Ombudsman's intervention, the mayor undertook activities so as to engage a civil engineering inspector of the common services of the municipalities Bosilovo, Vasilevo, and Novo Selo.

In addition, the municipality Krivogashtani also has no authorized civil engineering inspectors, whereas the procedure initiated by the Mayor for authorization of a civil engineering inspector, due to legal obstacles, ended without achieving an inter-municipal contract. Due to the previous, currently ongoing is the procedure for establishment of an inter-municipal cooperation in this area with the Radovish municipality, which is final contract conclusion phase. An authorized civil engineering inspector was employed in the municipality Makedonski Brod in June 2015, up to which date no one acted on the citizens' requests for monitoring.

Although to a smaller extent, the reporting period has established delay in the preparation of administrative acts on the performed supervisions in certain municipal administrations.

Acting in accordance with submitted complaints of citizens due to non-taking of actions on their complaints by the authorized building inspectorate of the Kumanovo municipality, the Om-





budsman managed to protect their rights, and according to his indications, the authorized civil engineering inspectors undertook activities for the buildings built without issued construction authorization, and have adopted administrative acts for their removal. In the context of the above conclusion for unfounded delay in the adoption of administrative acts following a performed supervision is the acting on the complaint submitted by a citizen of this municipality, who submitted his complaint for supervision to the authorized civil engineering inspector in June 2015, and the authorized civil engineering inspector performed the supervision and drafted Minutes 2 months after the complaint submission. The decision for removal of building was adopted in November 2015, which in accordance with the Law on Inspection Services should be adopted without any delay and within 3 days following the performed supervision, at the latest. In another case, the Ombudsman concluded that the Conclusion for license for execution was adopted 7 months following the performed supervision in 2014, that is, in June 2015.

Consumers' rights

Citizens, as consumers, have submitted complaints to the district units of the Ombudsman on the manner of performing communal activities by the public enterprises founded by the local authorities, requesting protection regarding the problems with public lighting, water supplying, as well as protection in the procedures taken against them in reference with debt collection.

Regarding the issue with public lighting, they have reacted on the imposed obligation by the local authorities to pay utility fees for services they do not use, since there is no public lighting in the area, place, or street where they live or where their weekend houses are located. Complaints were submitted on this basis to the municipalities Probishtip, Strumica, Kumanovo, Bitola, and Rankovce.

The Ombudsman, while acting on the complaints, informed and advised the citizens who submitted the complaints in terms of how to act and which entities to address, having in mind the Law on Communal Fees, pursuant to which the exemption of payment for this fee can be requested by the holders of electricity meters in inhabited places without public lighting. The exemption from this fee is determined by the Municipal Council with a special decision. Within the context of the above, the Ombudsman intervened to the councils of the municipalities to make decisions for exemption of citizens from this fee in cases when there is no public lighting, indicating to the local authorities that citizens should be charged for the services they obtain, and the houses located in places without public lighting should be exempted from payment of the public lighting utility fee.

A positive example for acting in accordance with the Ombudsman's indications, and in the interest of the citizens, is the Rankovce municipality, where the municipal council has adopted a Decision determining passive inhabited places without public lighting, where, with direct control on site, it was determined whether the conditions for exemption of the public lighting fee have been met.

Most complaints of citizens referred to requirements for collection of old debts by the public utilities founded by the municipalities, that is, that they are served with letters of notice requesting collection of debts for unpaid delivery of water, collection of garbage, threatened with forced debt collection, or disconnection from the water network.

In reference with the actions taken on the complaints, the Ombudsman established that in the Gevgelija municipality, the utility company has submitted notices to the citizens informing them to pay the unpaid water bills, if any; otherwise, they should ignore the submitted notice. This confused and upset the citizens, due to which they requested legal advice for their actions, and they were all referred to the Ombudsman.

In this context, the Ombudsman registered an attempt to collect an old water debt against which no legal actions have been taken in Kichevo, by the public utility company Komunalec, due to which the one has submitted an indication to the director of the utility company that the pay-





ment of this debt is unfounded, whilst referring to the Law on Obligations which envisages statute of limitations for forced collection procedure, and has managed to prevent the unfounded collection of old debt of the citizens who are users of this service.

Moreover, complaints relating to collection of expired debts were submitted for the Public Utility Company "Komunalec", and the Public Utility Company "Vodovod" from Bitola. In all these procedures, the Ombudsman managed to protect the citizens' rights in terms of not paying what they are legally not obliged to pay. Namely, following the submitted indications, the public enterprises have interrupted the delivery of notices for payment of liabilities occurred several years ago, have withdrawn the procedures initiated with the notary public, as well as the requests for execution submitted to the executor. On the reaction of the Ombudsman regarding the inadmissibility of such massive manipulation of citizens, the public enterprises have informed that each citizen who would address their services was informed of the period relating to the debt, and it was the citizen's right whether the one would comply with the obligation or not.

Labor relations

The number of complaints submitted to the district offices of the Ombudsman from employees of municipal administrations, primary schools under jurisdiction of the local self-government or the public municipal institution is rather low. Most often, the complaints refer to reactions of the applicants on the selection of candidates on published job notices, requesting for protection of rights against pronounced pecuniary penalties, or regarding the non-compliance of court decisions annulling the given assessments in the procedure for their assessment as civil servants, as well as regarding the non-realization of procedures for transformation of employment relations from part time to undetermined employment.

Acting upon complaints in this area, and in reference with the selection of candidates on published public notices by the schools in the municipalities Kumanovo and Gostivar, the Ombudsman has requested the State Education Inspectorate to perform inspection supervision, and on the basis of the supervision outcome, to undertake appropriate measures. In one of the two cases, following the performed supervision, the State Education Inspectorate has established irregularities in the procedure for selection of teaching personnel, followed by adoption of a decision by the inspectorate obliging the director to annul the selection and to re-select in a new procedure the appropriate teaching personnel which meets the notice requirements and the requirements in accordance with the Law on Primary Education.

In the domain of complaints on the basis of employment, an complaint was submitted by a candidate according to a published job notice in the municipal administration in Sveti Nikole, where it was determined that the applicant has failed to submit the complete required documents, due to which his/her complaint were rejected as incomplete.

Complaints were submitted for the mayor of Berovo municipality due to non-enforcement of court decisions. Namely, the applicants, as civil servants employed in the municipal administration, have initiated court procedures disputing the assessment by the mayor. Court procedures have ended with a decision in favor of the applicants, thus annulling the given assessments, and obliging the mayor to prepare new assessment forms. The Ombudsman, while acting upon these complaints, has concluded that in the meantime, during the court procedure, the employment relations of these civil servants in the municipality were terminated, followed by new court procedures aimed toward annulling such decisions; such procedures are still ongoing.

The above stated once more confirms the Ombudsman's conclusion regarding the lengthy court procedures, also relating to the procedures for protection of employment rights, which in practice last for several years, although are considered as urgent in accordance with the law. In the specific case, the citizens have disputed the acts of the employer and have suffered consequences due to that, that is, were forced to use court procedures so as to prove that the employment termination was unfounded.





Several complaints were submitted to the Ombudsman on the basis of rejected complaint, or non-provided answer on the request of teachers on the transformation of employment from fixed to indefinite period submitted to the directors of primary or secondary schools in the municipalities Tetovo, Kriva Palanka, Kumanovo and Bitola.

The Ombudsman, acting upon these complaints, has established that upon meeting the conditions set out with the Law on Labor Relations, the teachers engaged in the school for a period of 5 years, with or without interruptions, have submitted a request to the director for employment transformation. However, the directors have either not provided an answer to such requests, or have terminated the employment following the contract expiration, and have employed other teachers on their positions. By not realizing the employment transformation, the directors have seriously violated the citizens' rights and have acted contrary to the Law on Labor Relations which acknowledges such right to employees. These teachers were advised to ask for protection of their right in front of courts, which, depending on the court and the presiding judge, have made different decisions on the respective cases. All this causes legal uncertainty with the citizens, which the Ombudsman finds as inadmissible and contrary to the principle of rule of law as core value, on which the constitutional order in the Republic of Macedonia is based.

Property and legal relations

The new Law on Construction Land applied as of July 2015 transfers to the municipalities the competence in the procedures for sale and short-term and long-term lease of construction land and for establishment of the right to servitudes to construction land owned by the Republic of Macedonia.

The implementation of procedures for sale of construction land or prevention of actual transfer of possession of construction plots bought by the citizens in accordance with a concluded contract for sale of construction land with the Ministry of Transport and Communications, construed the causes for submission of several complaints in this area to the district offices of the Ombudsman.

Acting in accordance with the complaints, the Ombudsman has established that due to various causes, the citizens have faced difficulties in the realization of this right, and the municipalities, as competent for problem resolution, justified themselves with the issues envisaged in the detailed urban plan. Therefore, in a case relating to delayed procedure for sale of construction land, the Ombudsman undertook actions and determined that the issued decision for sale of land was withdrawn by the authority for the purposes of correction of the surface square meters; however, 2 years have expired and no new and corrected decision was made. Following the Ombudsman's intervention and his addressing to the mayor of the Gostivar municipality, this municipality undertook measures for preparation of a new detailed urban plan which changes the complete situation on site and the part of the block for which the citizen has requested the adoption of a decision was sent for approval by the Ministry of Transport and Communications, which shall be followed by adoption by the municipal Council and provision of the decision the citizen has requested.

In addition, the Ombudsman acted in accordance with an complaint by the citizen from the Novak village, Centar Zhupa municipality, due to delayed procedures for deciding upon his/her request for sale of construction land for the purposes of construction plot completion, submitted to the municipality in June 2015. The Centar Zhupa municipality has provided a notification relating to interests expressed by various investors for the location the citizen is interested in, due to which the municipality is currently preparing an urban plan outside of inhabited area with wider scope, which shall also include the location to which the citizen's request relates to, that is, the procedure for sale of construction land shall also be carried out on the applicant's request.

In another case, the Ombudsman has established that in 2010, the citizen has concluded a contract with the Ministry of Transport and Communications on sale and purchase of construction land with direct agreement for construction plot completion in Prilep municipality; however, in the



procedure for obtaining an authorization for construction of a fence around the construction plot, the citizen's request was rejected. Following the undertaken activities, the Ombudsman has established that the request for fencing of the construction plot was rejected due to the situation including the passing of an asphalted road in part of that construction plot, which currently is used as public road. Such actual situation was established by inspecting the Excerpt of the Detailed Urban Plan issued by the municipality in 2010, on the basis of which the Contract for Sale and Purchase was concluded. Therefore, both the applicant and the Ministry of Transport and Communication should have been informed of the actual situation that a road is passing through part of the construction plot. Moreover, the new detailed urban plan for that area envisages construction of a new street next to the construction plot; however, until the plan is realized, the complaint cannot use part of the bought construction land. Having in mind the established situation, the Ombudsman has advised the citizen on the manners for problem resolution, that is, either to wait for realization of the valid detailed urban plan and the construction of the new street, or to request for annulment of the concluded contract for completion of the construction plot in a court procedure.

Finances and customs

Regarding the citizens' financial obligations to local authorities, they have mostly reacted to the violations of their rights regarding calculation and payment of property taxes by the local authorities. Most of the complaints within this area, submitted to the Ombudsman's district offices, related to the manner of realization of the forced collection of tax debt and the unfounded indebtedness with property tax by the municipalities.

It can be concluded from the citizens' complaints that municipalities often, for the purposes of property tax collection, block the transaction accounts of the citizens without taking into account the basis of revenues, thus violating their rights. In the context of the above, the Ombudsman, in the procedure for protection of citizens' rights, has established that the Makedonski Brod municipality, as of September 2014, has enforced forced collection of property tax by blocking of transaction accounts which have revenues only on the basis of social pecuniary assistance. The Ombudsman has indicated to the municipality that in accordance with the Law on Property Tax, the execution on pecuniary means on the basis of social rights are exempted from execution, due to which he requested determining of the basis for inflow of funds on the blocked account, and if established that the single revenue on such account relates to the social pecuniary assistance, to immediately unblock it.

Due to unfounded indebtedness of citizens with property tax, the Ombudsman initiated two procedures. One on the manner of keeping taxpayers in the municipality Lipkovo and municipality Kumanovo, and the other regarding indebtedness of a citizen with property tax for apartment which the applicant has sold 15 years ago. In the first case, the Ombudsman established that the citizen has duly and properly paid taxes to the municipality in which his/her entire property was located; however, the one was submitted with a notice for payment of overdue debt for property tax by the Kumanovo municipality, where he/she did not possess any property.

In the procedure regarding this complaint, the Ombudsman has addressed the Kumanovo municipality and requested for immediate taking of actions and measures so as to stop the forced collection of the unfounded tax debt and to prevent any further consequences for the citizen. In order to deal with this problem, reconciliation of records of taxpayers of both municipalities was performed, during which it was established that certain taxpayers are registered in both municipalities, Kumanovo and Lipkovo, resulting into commencement of a procedure for deletion of incorrectly registered taxpayers and permanent writing-off of tax debts in both municipalities.

In reference with the second complaint for property tax for apartment which the applicant has sold 15 years ago, in accordance with the request of the Ombudsman, the property tax determination procedure was repeated, which established unfounded charging with property tax of the applicant. Upon the Ombudsman's request, the mayor of the City of Skopje has annulled, with a deci-





sion, all previously adopted decisions which unfoundedly charged property taxes for the applicant's apartment located in Skopje; the annulment of the decision resulted into an obligation for the City of Skopje to return the unfoundedly collected funds.

Having in mind the problems faced by the citizens regarding the determining and collection of taxes by local authorities, the Ombudsman indicated to the municipal administration that the one should manage the procedures in accordance with the Law on Property Taxes on the basis of previously determined actual situation whether the citizen has the capacity of a taxpayer or not.

According to the Ombudsman, due to the non-organized and improperly kept records of taxpayers, it cannot be allowed for the citizens to be charged with property taxes which they do not have, and to be subjected to forced collection procedures, as the above stated case.

Regarding the notices for payment of overdue tax liabilities, it was established that the same were not submitted in a manner envisaged by law, due to which the citizens have indicated that they have not received them, and the tax units do not have any proof for due delivery of such notices.

The Ombudsman considers that only a duly completed letter of delivery constitutes a proof for the made delivery, and it is of that moment when rights and obligations commence, for both the taxpayer and the authority that made the decision. However, contrary to such legal solutions, citizens often learn of the forced collection procedures after their transaction accounts are blocked; and following their reactions, the decisions for forced collection delivered on hand in the official premises of the municipalities.

The Ombudsman concluded that in the reporting period, the practice of the local authorities to charge citizens with unpaid taxes for a period of 10 years is still ongoing, although the Law on Property Tax establishes it as absolute statute of limitations which can be taken into consideration only if the local authorities can prove that they have undertaken activities in this period which interrupt the statute of limitations.

The Ombudsman has also indicated that there are no cause and consequence relations of the accounting permanent write-off of tax liabilities, which is a procedure that can only be initiated upon proposal of the mayor, with legal collection of such liabilities. More precisely, forced collection cannot be requested or performed following the expiry of the statute of limitations, even more if such liabilities were written-off in the accounting records.

The Ombudsman has indicated that legality, professionalism and non-selectivity in the management of procedures for determination and collection of tax liabilities by the municipal administrations represent a precondition for the citizens to increase their trust to the local authorities, and not perceive this liability as financial burden, but as own contribution to the general good and development of the municipality in which they live and in the interest of all citizens it ser

Environment

During the reporting period, only several complaints were submitted to the district offices of the Ombudsman on the protection of the right to healthy environment, which does not correspond with the problems actually faced by the citizens in reference with this right. Citizens have reacted due to the non-taking of appropriate measures and actions by the authorized inspections on their complaints and requests, whereas in one case, the Ombudsman has initiated a procedure on own initiative for protection of the citizens' right to clean and unpolluted environment.

The Ombudsman, acting upon an complaint of a citizen from the Vasilevo municipality, has established that his/her neighbor is keeping a greater number of sheep and lambs in his/her yard, resulting into unbearable odor, occurrence of pests, significant quantity of manure, etc. In reference with his/her reports, the municipal inspection authorities have generally not undertaken efficient measures to overcome this problem, other than making minutes following the performed insight.



The authorized communal inspector has informed the Ombudsman that the one has performed an insight on the relevant place and made minutes, which was the only thing he could do, since his competence related to maintenance and control of public cleanliness of public areas, that is, there are no regulations to sanction the established irregularities.

The Ombudsman finds such unfamiliarity with the legal provisions which ensure the competence of the inspection authority as inadmissible and unprofessional, due to which he indicated to the inspector that keeping cattle and poultry in an inhabited area contrary to the conditions of the Decision for communal order of the municipality is subject to sentencing, in accordance with the Law on Communal Activities, with pronouncing of a fine to the natural person. In the relevant case, the conditions in which the neighbor is raising cattle are undoubtedly contrary to the required conditions, and the communal inspector can, and is legally obliged to, pronounce a fine.

In addition, a resident of the Strumica municipality has requested for intervention of the Ombudsman due to non-taking of actions by the authorized environment inspector in the municipality, on the complaints for unclean wastewater drainage channel which pollutes the entire environment with feces. Upon request of the Ombudsman, the authorized environment inspector has controlled the site and made a decision on the established situation obliging the utility to clean the drainage channel which caused problems for the residents for a longer period of time, and in particular to the citizen and his/her family living near the channel.

In accordance with received information that on the Street 11 Noemvri (Bedinje settlement), Kumanovo municipality, where the regional road Kumanovo-Lipkovo-Skopje is passing through, there is overflow of fecal waters from the city sewage of Kumanovo, the Ombudsman has initiated a procedure on own initiative and immediately established contact with the director of the Public Enterprise "Vodovod" – Kumanovo, requesting for undertaking of measures for urgent defect repairing. Moreover, he indicated that due to the non-diligence of the enterprise, the environment is polluted and the right to clean and unpolluted public environment is directly violated. Although the public enterprise has provided an answer that part of the sewage network is an illegal sewage for which they are not obliged to undertake any defect repairing actions, upon the Ombudsman's request, they have commenced activities to remove the defect, on the very same day, resulting into stopped overflow of fecal waters on the road.

Out of the several citizens' complaints in this area, it can be concluded that local authorities are insufficiently diligent in terms of resolution of problems faced by the citizens, and the efficiency of the authorized communal inspectors and environment inspectors is non-satisfactory in terms of undertaking of actions in their competence.

The Ombudsman recommends strengthening of the mechanisms for supervision over the work of the inspections and their continuous education and training for the purposes of complete and effective complaint of the laws according to which they take actions. At the same time, he recommends for the local authorities to undertake more active and more efficient measures and activities for raising of the public awareness on the importance and need for a clean environment of the citizens, as well as of the municipal administration, which is obliged to secure living in clean and unpolluted environment.

Social security and protection

Competences of local authorities in the field of social protection are numerous. Municipalities should, inter alia, secure realization of social protection for persons with disabilities, children without parents and children without parental care, children on the streets, persons exposed to social risks, persons victims of family violence, persons victims of human trafficking, elderly people without family care, etc.

Such care for socially vulnerable groups of citizens on their territory should be provided by the local authorities through institutional and non-institutional forms of social protection, where the funds for financing of the transferred competences in this area are secured from the budgets of the municipality, and part is secured through donations and from the Budget of the Republic of Macedonia.

In practice, the stated competences of the local authorities for prevention, resolution and advancement of the situations in the social sphere are implemented to a low extent, due to which citizens do not perceive local self-governments as authorities which can resolve their social problems they face on a daily basis and provide the required social protection.

The above stated is also confirmed with the fact that no complaints in the social area were submitted to the district offices of the Ombudsman.

The Ombudsman, for the purposes of perceiving the situation regarding the realization of social protection rights of the citizens and determining whether and to what extent are the municipalities, as responsible entities for social protection, looking after the citizens within the frames of their competences, conducted a research through requesting data from 46 municipalities in the Republic, from rural and city environments.

11 municipalities provided the data in accordance with the request, the Bitola municipality declined to provide the data explaining that the Ombudsman has no competence to request data on the situation relating to realization of citizens' rights, and that his competence is only when rights of particular citizens are violated.

It can be concluded from the analysis of received data from 34 municipalities that the total budgets of the municipalities envisage insignificant funds which are to provide the citizens with the right to social protection and social security. Allocated funds in the total budgets for 2015 in all municipalities were shown to be insufficient for the purposes of taking actions on the requests of citizens in social risks.

The answers provided by the municipalities show that they are facing difficulties in terms of realization of competences in the social area, and the decentralization in this area is still not providing the expected results. Sustainability of decentralized social services depends on the amount of funds envisaged for this purpose in the municipal budgets.

Research has shown that funds allocated in the budgets of the municipalities for realization of social protection and social security rights of the citizens are far from sufficient to meet the needs of the socially endangered citizens and the citizens of the vulnerable groups, and the same often account for 1% of the total budget. The percentage of realization of programs and envisaged activities for social protection and social security of citizens is far from satisfactory and citizens are not receiving the required assistance. On the other side, the reallocation of funds envisaged for social compensations for settlement of other costs of the municipality is frequently occurring, due to which budgets formally present amounts on the item "unused social compensation funds".

The Ombudsman has also established that municipalities have no special programs for all vulnerable groups of citizens, and most often, the social protection given to citizens refers to on-time pecuniary assistance for various needs of the citizens. Child protection is often reduced to allocation of funds for kindergartens and compensations for newborns. Municipalities have no special programs for looking after homeless people and internally displaced people, and the protection of this category of citizens is often still enabled by the central authority. In addition, there are no formally established and standardized mechanisms for identification of poor and vulnerable groups, and there is no clear strategy plan for improvement of the situation of socially endangered citizens.





Having in mind the above stated, the Ombudsman considers that it is necessary to start implementing the normative frame which decentralizes the social sphere competences and which formally secures efficient protection of social rights of the citizens by the local authorities, thus enabling the citizens to feel the benefits of the transferred competence. In that context, municipalities are to allocate more funds for social protection in their budgets, in accordance with the number and needs of the socially endangered citizens on their territories, and the social protection funds should be fully used in accordance with their purpose, and not to be reallocated for the needs of other budget items.

It is necessary, inter alia, for the municipalities while adopting the budget and determining the amount of funds for social protection and security of citizens, to secure mechanisms for including the citizens in the process of identification of their needs. At the same time, programs and action plans should be adopted for each target group which shall specifically envisage, allocate and spend funds for assistance of the socially vulnerable categories of citizens on the territory covered by a specific municipality.

PRACTICE EXAMPLES

NP no. 3249/15

The Ombudsman, on own initiative, has initiated a procedure on the obtained information for strike with hunger of convicted persons in the correctional facility Idrizovo, correctional facility Shtip, KPU Tetovo, KPU Kumanovo, and KPU Gevgelija, as a consequence of the poor accommodation conditions, and as support of the civil initiative for amendments of the Amnesty Law. Following the performed insight in these institutions, the Ombudsman has established that part of the convicted persons in these institutions who are on hunger strikes, have informed in writing the institutions' management, as well as the Administration for Execution of Sanctions. Having this situation in mind, the Ombudsman has regularly monitored the situations in these institutions, in particular in the part relating to health protection of convicted person striking with hunger, and has continuously indicated to the managements of these institutions of the obligation for continuous monitoring of their health state and undertaking of appropriate measures in case of potential deterioration of their health situation. At the same time, the Ombudsman has requested and indicated the need for the convicted persons to be informed of the harmful consequences for their health that could result from rejection of food. The institutions' managements have acted in accordance with the indications of the Ombudsman and have regularly monitored the health situation, in particular of the persons striking with hunger. In the meantime, following the collection of the required number of signatures on the initiative to amend the Amnesty Law and for the same to be reviewed by the Assembly of the Republic of Macedonia, the convicted persons of all correctional institutions have stopped their hunger strike.

NP no. 3211/15

Pension insured person living in Germany has addressed the Ombudsman's district office in Tetovo with an complaint requesting for intervention for protection of rights violated by the Fund for Pension and Disability Insurance of Macedonia, due to non-enforcement of adopted administrative act which acknowledges the right to proportional part of age pension.

Acting in accordance with the complaint, the Ombudsman addressed the Fund and indicated the necessity to undertake actions for the purposes of realizing the right to age pension in the determined amount and its transfer to the Republic of Germany.

Following the intervention, the Fund has adopted a decision for transfer of pension and payment of the overall amount, thus realizing the right of the applicant.



NP no. 60/15

GJ.K. from village Kuklish, Strumica, submitted a complaint on behalf of his sick father who was unable to realize the right to pecuniary compensation for assistance and care by other person, although the one was in a difficult health situation, due to delayed court procedures.

Namely, following the judgment of the Administrative Court which acknowledged the complaint of the applicant on the above stated basis, complaint was lodged by the Ministry of Labor and Social Policy in September 2015. The Administrative Court has lodged this complaint to the plaintiff, in this case the applicant, almost a year later, that is, at the end of June 2014. Within the legal timeframe, the applicant has filed the relevant response and submitted it to the Administrative Court. Since the one has not received any court decision on the complaint of the Ministry of Labor and Social Policy up to January 2015, the one has requested for an intervention of the Ombudsman.

The initiated procedure established that the case of the applicant in the Higher Administrative Court was received on 20.01.2015 and was immediately processed, and the Ombudsman was informed that following the decision-making, the one shall be returned to the Administrative Court for the purposes of submitting of the decision to the parties.

After a certain time period, the son of the applicant has informed the Ombudsman of the decision receipt, as well as that the father has died in the meantime, as well as that the procedure repeating is ongoing with uncertain final outcome due to receiving a negative decision from the Intermunicipal Social Work Centers Strumica which was complained by his attorney to the Ministry of Labor and Social Policy.

NP no. 494/15, 495/15, 496/15, 497/15, 498/15, 499/15, 500/15, 501/15, 502/15, 503/15, 504/15, 505/15, 506/15 и 3048/15

Greater number of complaints submitted to the Ombudsman by citizens of the Bitola municipality and the wider region, requesting for protection of their rights in the procedures for acquiring a driver's permit.

Namely, these persons are the candidates who completed the training for drivers in the period when Bitola had the Test Center of the Auto-moto Alliance, and have paid all required financial compensation (for the training, medical certificates, and taking of theoretical and practical parts of the driver's exam).

In the meantime, in the Bitola municipality in August 2014, the Test Center Auto-moto Alliance ceased with its operations, allegedly due to illegal operations. The Ministry of Interiorwithdrew the license for operations of this Test Center leaving the citizens of the Bitola municipality and the entire region covered by the Sector for Internal Affairs Bitola (municipalities Prilep, Resen, Krushevo, Demir Hisar, Makedonski Brod and other smaller municipalities) without possibility to complete the procedures for acquiring a driver's permit.

With the opening of the new Test Center, Auto Macedonia, Bitola, in January 2015, the candidates-applicants submitted requests to the Center for continuation of the driver's exam, each in the part not taken due to objective inability, and the same were answered that the legally prescribed timeframe of one year in which they were entitled to take the exam has passed, due to which they shall have to again pay for the exam costs.

The Ombudsman addressed the Ministry of Interior and requested for information on all undertaken activities, which they are legally authorized to take in such cases. The Ministry informed the Ombudsman that the legally prescribed procedure was not implemented (organization and implementation of the driver's exam) due to the lack of appropriate spatial and material-technical capacities, professional personnel and information equipment for implementation of the mentioned procedure.

In addition, and for the purposes of overcoming this situation, the Ministry of Interior and the newly-elected Test Center have jointly agreed for the Test Center to enable these candidates to take the remaining parts of the test on financial burden of the Test Center.

However, after a certain period has passed, the Ombudsman received complaints by certain





candidates indicating that they are again required to settle the financial burden for continuation of the driver's exam.

The Ombudsman first addressed the Test Center Auto Macedonia, Bitola, indicating the need for proper compliance with the previously agreement with the Ministry of Interior for exemption of costs for taking of the remaining part of the driver's exam for the candidates who, without their fault, have lost the right to take this exam.

Due to the non-actions of the Test Center following the indications for proper compliance of the previous agreement, the Ombudsman has asked the Ministry of Interior to supervise the work of the Test Center in Bitola regarding the damaged candidates and the compliance with the already assumed position of the Minister of Internal Affairs submitted to the Ombudsman in letter No 13.1-14811/1 dated 03.03.2015.

The Ministry has acted upon the request of the Ombudsman, performed the supervision and informed with letter No 22.2-92638/1 dated 23.12.2015 that the Commission for Supervision of the Work of Test Centers has controlled the files of the candidates for drivers and established a situation in which almost all candidates who have exceeded the validity of the theoretical exam part had both the opportunity and time to continue with the practical part up to the cessation of activities of Auto-moto Alliance – Test Center Bitola, by and including 04.08.2014.

By providing such answer, the Ministry of Internal Affairs, due to unexplained reasons, has changed its position for resolution of the citizens' problems and transferred the responsibility with the candidates.

Due to such situation in which the same state authority (Ministry of Interior), for a period of only several months, has established different actual situations on the same problem of the citizens and has assumed different positions for its resolution, whilst failing to act upon the request of the Ombudsman for equal treatment of candidates, the Ombudsman has indicated to the applicants the possibility to use court procedures so as to request for protection of rights in the procedure for taking of the driver's exam.

NP no. 2298/15

Employee of SOZSHU "Gjorche Petrov" – Kavadarci has asked for intervention of the Ombudsman in front of Kavadarci municipality due to non-submission of documentation to the Ministry of Education and Science in the procedure for obtaining consent for transformation of employment from fixed to indefinite employment. Acting in accordance with the complaint, the Ombudsman addressed the Kavadarci municipality requesting for diligent activities, that is, for undertaking of measures aimed toward submission of documentation to the Ministry.

Out of the submitted notification and established contacts with the official person of the municipality, the Ombudsman has established that the municipality has acted upon the request of the Ombudsman, that is, the documentation was submitted to the Ministry, which has in a short notice, confirmed the consent for secured funds for transformation of fixed into indefinite employment. On the basis of the issued consent, and following the implemented further measures by the municipality and the school, the applicant has exercised the right to transformation of employment with the adoption of a decision for employment for indefinite period.



NP no. 399/15

A citizen, engaged with a contract in the National Institution Macedonian Opera and Ballet, has submitted an complaint to the Ombudsman due to violation of the employment rights, that is, due to non-compliance with the provisions of the contract for payment of monthly fees not paid by the institution. After inspecting the case, and having in mind the submitted documentation, the Ombudsman undertook measures against Macedonian Opera and Ballet by submitting an indication on violated rights and requested for this institution to meet the obligations for payment of the entire due amount earned by the applicant.

Within the legally prescribed timeframe, the Ombudsman was informed by the Director of the institution that the indication was accepted and that the applicant shall be paid with the entire due amount for the performed work, and the applicant has confirmed that the funds have been fully paid on his/her transaction account in accordance with the subject contract.

NP no. 1182/15

Complaint was submitted to the Ombudsman's district office in Shtip by the attorney M.V. – proxy of a person with imprisonment sentence in the correctional facility Shtip. The complaint indicated that the convict is not exercising his rights set forth by the Law on Execution of Sanctions, that is, the same are limited by the prison officials.

Acting in accordance with the complaint, the Ombudsman performed an insight in the correctional facility Shtip, and established that the convict is an extradited person from Kosovo, and due to safety reasons, certain limitations were taken as regards the visits and movement and stay with other convicted persons.

The Ombudsman requested the Administration for Execution of Sanctions Skopje to control the work of the institution so as to determine whether the main rights of this convict have been violated, whether the one is subject to the imprisonment sentence as other convicted persons, that is, whether it is in accordance with the Law on Execution of Sanctions and the European Prison Rules.

The Administration for Execution of Sanctions has informed in writing that actions were taken in accordance with the request of the Ombudsman, with performance of a professional – instruction supervision, the commander in charge in the correctional facility Shtip was given appropriate indications on the oversights toward the convicted person, and that the same were removed.

NP no. 4103/15

E.A. from Tetovo submitted an complaint to the Ombudsman's office in Tetovo due to unfounded debts for broadcasting fee.

Acting upon the complaint, the Ombudsman concluded that the one is founded since regarding the specific family, the conditions of the Law on Audio and Audiovisual Media Services for exemption of this tax have been met.

Namely, the applicant is a person with impaired hearing of over 60 decibels, of which the one possesses the relevant medical documentation.

On the basis of such situation, the Ombudsman addressed the Public Revenue Office – Tetovo and the Public Enterprise Macedonian Radio-television – Skopje and indicated that it is necessary to take measures and activities for exemption of the commitment for payment of the broadcasting fee, as well as to withdraw the already submitted decisions, which are not in accordance with the relevant law

The indication of the Ombudsman was fully accepted, and the family of the applicant was exempted from payment of the broadcasting fee.





NP no. 3522/15

The citizen R.R. from Kichevo submitted an complaint against the State Construction and Urbanism Inspectorate due to non-taking of actions on his/her request for placing a seal for validity of a decision and conclusion for correction of error for further continuation of the procedure.

Upon receipt of the complaint, the office of the Ombudsman in Kichevo has addressed the competent authority, after which the applicant has personally informed that the request was complied with, that is, the decision and conclusion were submitted, duly sealed for validity.

NP no. 1073/15

The Ombudsman, acting in accordance with a submitted complaint by a citizen for protection of her rights and the right of her grandson to have personal relations and direct contacts, has addressed the Public Institution Inter-municipal Social Work Center of the City of Skopje and asked for information on the dynamics with which visits of grandmother and child are being realized, that is, whether a decision for such visits was made, and which measures were undertaken by the competent Social Work Centers. At the same time, the Ombudsman also addressed the Public Institution for Social Activities and requested for professional supervision over the work of the professional team of the Center.

Upon acquiring the data and information, as well as the submitted report of PI Institution for Social Activities on the performed supervision over the work of the Center, the Ombudsman concluded that although decision for visits was adopted, the same is not complied with for a longer period of time, that is, the visits between the grandmother and grandson have been interrupted, as well as that no proper measures are being undertaken so as to exercise the visitation rights in the manner envisaged by the professional team.

The Ombudsman assessed that such actions violate the right of the child to have personal relations and direct contacts with close relatives of his mother, that is, the right of the grandparents to have contacts and visits with their grandson, due to which the one has indicated to the competent center to make efforts for more efficient exercising of the right, that is, to undertake measures for the purposes of implementation of the decision and exercising of the right to visits between the grandmother and grandson. This was followed by adoption of new, revised decision for visits between the grandmother and grandson in accordance with the child's needs, and visits have commenced in accordance with the regular dynamics.

NP no. 2537/15

D.I. from Vasilevo has submitted an complaint due to non-receiving, for a longer time period, a notification regarding the competition for awarding apartments for children without parents by the Government of the Republic of Macedonia – Commission for Housing Issues.

The Ombudsman addressed the Commission for Housing Issues and requested for information regarding this case, followed by receiving an answer that the person was not included in the category of children without parents, following the received information from the Public Institution Inter-municipal Center for Social Affairs Strumica. In the actions taken further, the Ombudsman visited MCSR Strumica and established that the person, in 1997, was sent to the Home as socially neglected child and was hence not included in the category of children without parents. The Ombudsman indicated the violation of rights of the applicant and requested for measures to be undertaken for legal actions in the specific case, and place it on the list for the purposes of exercising the rights as a child without parents.

Following the Ombudsman's indications, the Center for Social Affairs additionally submitted documents to the Government of the Republic of Macedonia – Commission for Housing Issues, followed by receipt of a notification that the request of the applicant for awarding of an apartment shall be reviewed as a request of a child without parents and without parental care.



NP no. 4022/154

P.P. from Bitola has submitted a complaint to the Ombudsman, indicating a violation of the right to live in peaceful environment, without noise of strong intensity, of the citizens living near the church Sv. Bogorodica, in the center of Bitola.

In accordance with the complaint statements, the peace in their everyday life, at the end of October 2015, is being continuously disturbed by the significant noise coming from the church which started to use speakers for its services. According to the complaint statements, the citizens have addressed the authorized environment inspector of the Bitola municipality; however, the one said he/she was incompetent to act on the supervision reports, due to which the citizens have requested for intervention of the Ombudsman.

Having in mind the provisions of the Law on Protection against Noise in Environment whose objective is to create and enable healthy conditions for life of the citizens and protect the environment against noise, the Ombudsman requested the authorized environment inspector of the municipality to go on site and measure the emission value of the noise originating from the speakers of the church Sv. Bogorodica in Bitola.

Following the request, the authorized environment inspector submitted a Notification that the inspectorate is not competent for disturbance of the citizens' peace, but that the Ministry of Interior is competent for that issue in accordance with the Law on Misdemeanors against public order and peace.

Dissatisfied with such ultimately unprofessional contents of the answer, the Ombudsman indicated to the inspector that the specific case does not relate to disturbance of public order and peace, but that the one relates to environment protection against noise and enabling healthy conditions for life of the citizens, and submitted another request for taking of actions in accordance with his/her competences for measuring of the noise level.

Following this request, the inspector acted in accordance with his/her competences and authorizations, and performed an insight three times in different parts of the day, followed by drafting of minutes.

In that segment, the sound level originating from the speakers placed on the church was measured, resulting into sound level of about 60 dB, which is within the frames of the legally allowed noise level.

NP no. 701/15

B.M. from Strumica area asked for intervention of the Ombudsman due to delayed court procedures in front of the Administrative, or Higher Administrative Court Skopje. Namely, the applicant lodged a complaint in June 2011 against a judgment of the Administrative Court on which no court decision was obtained following the expiry of the period of four years. The initiated procedure has established that the complaint and the entire file is still in the Administrative Court, that is, was not submitted to the Higher Administrative Court since the same has rejected its receipt due to the lacking documents which were to be submitted by the Ministry of Health.

Following the undertaken activities, the competent services of the Administrative Court submitted a notification that the court has submitted urgencies to the Ministry of Health for provision of the file documents; however, the file is still incomplete and is, as such, placed on the list of disputable files submitted to the Court Council of the Republic of Macedonia; however, no answer and instructions were received for further actions.

Due to the so-determined actual situation, that is, since the applicant has failed to exercise her legal right in the past several years and was not provided with a court decision on the submitted complaint, she was advised to use the legal opportunity and address the Supreme Court due to violated right to trials in reasonable time periods.





NP no. 373/15

A citizen from Skopje submitted an complaint to the Ombudsman requesting for protection in front of the Unit for Domestic Violence upon submitted reports indicating the non-taking of measures for protection of the rights of his children against negligence and neglect by their mother.

Acting in accordance with the complaint, the Ombudsman initially requested the professional team of the Center for Social Affairs to inform in details on the undertaken measures, and in reference with the protection of rights of children and their best interest has performed several insights in this institution indicating the continuous actions of the professional persons on the subject of protection of children and parent.

As a result of the Center's actions and the indications for undertaking the legally prescribed measures, the Center has submitted a proposal to the competent court for pronouncing a restraining measure for approaching the place of living and approaching the school, and the offender was imposed with a measure for obligatory treatment.

NP no. 1143/15

A citizen with dual citizenship, one of which Macedonia, submitted a complaint to the Ombudsman for violation of rights and protection against discrimination due to unequal treatment by the Public Enterprise "Gradski parking" – Skopje. Namely, the complaint refers to the non-obtaining of a card for preferential parking of a vehicle with registration plates of a neighboring country, although the citizen possesses own apartment and identity card with residence in the Centar municipality. The Ombudsman addressed the competent sector of PE "Gradski parking" – Skopje, indicating the compliance with the existing legislation, and the need for amendments of the bylaws regulating the issue for usage of parking areas managed by the public enterprise. At the same time, the provider of parking services was indicated that the right to enjoy and use certain rights should be related to the apartment ownership, and not to the vehicle registration plates possessed by a particular person, and requested undertaking of measures for equal treatment of all citizens in reference with this right. The competent service of PE "Gradski parking" – Skopje accepted the indication, and enabled the applicant to exercise the right.

NP no. 977/15

J.S. from Gostivar submitted an complaint to the Ombudsman's district office in Tetovo and requested for intervention of the Fund for Pension and Disability Insurance Macedonia – branch Gostivar, on taking of actions in accordance with the contents of the decision of the State Commission for deciding in administrative procedures and procedures of labor relations in second instance – Skopje, which accepted his complaint.

The Ombudsman, in the specific case, established violation of rights with delayed procedure and accordingly, addressed the Fund for Pension and Disability Insurance Macedonia – branch Gostivar, requesting for the case to be processed without any delay.

In accordance with the intervention of the Ombudsman, the applicant exercised his right.



NP no. 16/15

Resident of Strumica submitted a complaint to the Ombudsman requesting for intervention due to illegally blocked transaction account by the Agency for Management with Seized Property.

Following the undertaken measures and activities, the Ombudsman established that the adopted decision by the Agency has violated the rights of the person, in the manner in which actions were taken which are contrary to the Law on Execution and the defined wording of the competent court's judgment, that is, the one was illegally and unfoundedly prevented in the management with own funds. The Ombudsman indicated to the Agency for Management with Seized Property requesting undertaking of measures for overcoming of the problem, that is, withdrawal of the decision fully blocking the account, which is, making of a legal decision in accordance with the Law on Execution and the court's judgment and not to endanger the person's existence. As a result of the undertaken actions, the Ombudsman was informed that actions were taken on the indications, which is, the transaction account of the citizen was unblocked.

NP no. 1806/15

L.N. from Shtip submitted an complaint to the Ombudsman's district office in Shtip requesting for intervention in the District unit for first instance procedure in Shtip, due to delayed procedure for exercising of the right to privatization of construction land.

Acting upon the complaint, the Ombudsman performed an insight in the authority, and concluded that the case was given to be dealt with in the district unit in Probishtip.

Therefore, the Ombudsman submitted an indication to this Unit, indicating the necessity for undertaking of required actions and measures to adopt an act having in mind that the legal time-frame is long expired.

The Unit submitted an answer on the indication explaining the reason for procedure delays, and requested for additional timeframe for collection of data required for proper decision-making on the submitted privatization request.

Following the obtaining of necessary documents and case evidences, the case was resolved, that is, the applicant has exercised his right.

NP no. 1166/15

Group of citizens of the village Patetino submitted an complaint to the Ombudsman indicating that their rights have been violated, since following the natural disaster occurring on their movable and immovable property, the local self-government unit has failed to implement a legal procedure for determining the damage and indemnifying the concerned persons.

By reviewing the overall submitted documentation and evidences by the applicant, the Ombudsman concluded that the competent services of the municipality have failed to act in accordance with the legislation for damage assessment and payment of compensation, due to which an indication was submitted to the mayor of the municipality on the obligation to establish a commission for damage assessment which shall compose minutes on the determined situation, that is, the actual damage and compensation to be individually paid to each of the property owners.

Following the indication, the Ombudsman was informed that actions have been undertaken, and from the submitted evidences by the municipality, it was determined that the procedure was reimplemented for the purposes of determining the damage of the applicants' property from the natural disaster.





NP no. 1896/15

Citizen G.S. from Kichevo submitted an complaint to the Ombudsman's office in Kichevo against the Public Communal Enterprise "Komunalec" Kichevo.

More specifically, the relevant citizen indicated that the one was warned for the expired debt for unpaid bills and for disconnection from the water supplying network.

Following the receipt of the complaint, conversation was carried out with the director of the Public Enterprise indicating that the service user cannot be disconnected due to expired debts or to request for forced debt collection.

Such indication was accepted, indicating that if the user continues to pay the current bills, the one shall not be disconnected.

NP no. 2640/15

A group of employees in DOOEL "Rodon" Bitola have submitted an complaint to the Ombudsman requesting for acceleration of the procedure for the complaint lodged by their employer on the decision adopted by the State Labor Inspectorate in Bitola which obliges the employees for payment of the 2014 vacation recourse.

More specifically, the employees doubted that the lodging of the complaint by the employer, as well as the delayed procedures for submission of the complaint case to the second instance authority, the employer as well as the labor inspectorate are deliberately delaying the procedure for payment of the 2014 vacation recourse.

Following the complaint review and the review of the secured evidences, the Ombudsman concluded on the specific case that there is unjustified delay of the procedure, since the timeframe for actions on the complaint of the second instance authority has expired.

Moreover, the Ombudsman faced non-cooperation of the authorities competent for forwarding the subject complaint to the second instance authority, due to which it addressed the Inspection Council.

In cooperation with the Inspection Council, the State Administrative Inspectorate in Bitola was requested to perform inspection supervision over the work of the State Labor Inspectorate, so as to determine the reasons causing the delayed procedure for non-submission of the complaint to the second instance authority.

Following the intervention of the Ombudsman, the irregularities were removed, and on 30.11.2015, finally, the complaint and all file documents were submitted to the State Commission for deciding in second instance administrative procedure.

NP no. 2921/15

K.V. from the village Murtino submitted an complaint to the district office in Strumica and indicated that although the one possessed a valid decision for using the social assistance means, the same was not paid for a longer period of time.

Following the submitted request for information to the Inter-municipal center for social affairs Strumica on the reasons why the applicant was not paid the social pecuniary assistance, the Ombudsman was informed in writing that, following the indications of the institution and the performed control of the analytical card in the electronic system of PE MCSR Strumica, it was established that the pecuniary compensation for social assistance was fully paid till 31.07.2015. To prove the above stated, the analytical card of applicant was submitted, which confirmed that the relevant pecuniary compensation was transferred to his bank transaction account.



NP no. 3399/15

The convicted person I.M. serving an imprisonment sentence in the Kumanovo prison, telephoned the district office in Kumanovo requesting for intervention and indicating that the one has, a while ago, injured (broken) his leg, and since the prison does not have a doctor on a daily basis, after several days, following the performed control, the doctor established injury (swelling) and informed of the possibility for the leg being broken and issued a hospital reference for the JZU General Hospital in Kumanovo. The applicant requested for protection of rights, since the Security Sector informed him that the prison vehicles are currently engaged in other works and that the one will be sent to control in a few days.

Following the receipt of information, the Ombudsman undertook activities, and in conversation with the doctor engaged in the Kumanovo prison, the statements of the convicted person were confirmed, and that a hospital letter of reference was issued, explaining that the prison authorities are to take the further actions. The Ombudsman, in his further actions, contacted the Head of the prison's Security Sector and requested for urgent undertaking of activities and sending the convicted person to the hospital in accordance with the doctor's hospital reference letter, so as to secure the required health protection and to prevent any complication and consequences on the health of the convicted person.

The Head of the Security Sector accepted the indication and transferred the convicted person with the first available vehicle. The Ombudsman, during the regular visits to the Kumanovo prison, had a conversation with the convicted person who conferment that following the Ombudsman's intervention, he was transferred to the hospital where he received medical interventions, that is, the leg was placed in plaster cast.

NP no. 4081/15

A mother with autistic child submitted an complaint to the Ombudsman requesting for protection of rights in front of the Public Institution Inter-municipal Center for Social Affairs of the City of Skopje, Daily Center for Autistic Children – Skopje, since, in her opinion, the professional team of the Daily Center for Autistic Children is insufficiently working with her son.

Acting in accordance with the complaint, the Ombudsman addressed the Public Institution for Social Activities – Skopje, requesting for supervision of the professional work of the Daily Center for Autistic Children, more specifically of the employees obliged to work with the applicant's child, and has requested for instructions for further actions for the purposes of protecting the child with special needs.

Following the conducted supervision, the Institute for Social Activities instructed the Daily Center to prepare a plan for individual work with the user, a check list for the user which shall regularly record implemented activities. In addition, the Institute assessed that it is necessary for the Daily Center to include the child's parents in the work plan preparation. The Daily Center for Autistic Children acted in accordance with the Institute's instructions and undertook activities for effective working with the autistic child.

NP no. 1007/15

The citizen B.C. from Kichevo submitted an complaint against the Central Register of the Republic of Macedonia due to non-taking of actions relating to his request for deletion from the register of the sole proprietor entity, a situation resulting into him not being able to exercise his rights on the basis of unemployment.

Following the receipt of the complaint, the office of the Ombudsman in Kichevo properly intervened in the competent authority, and received an answer that the legal entity was placed on the list for deletion from records.



NP no. 2133/15

Citizen from Skopje submitted an complaint to the Ombudsman due to the fact that the Fund for Health Insurance – District Service Skopje has failed to act on the judgment of the Administrative Court for a period of almost 4 years, which prevented his right to refund of funds for performed health service.

Acting upon the complaint, the Ombudsman determined that the Administrative Court adopted a judgment on 23.02.2011 which was to be complied with by the Fund for Health Insurance, and due to the fact that the Fund has failed to act on the judgment for a longer period, the applicant submitted a written request to the Fund and the Ministry of Health, without receiving any answer.

For the purposes of exercising of the applicant's rights, the Ombudsman undertook the necessary measures and submitted an indication to the Fund for Health Insurance to act in a short notice on the judgment of the Administrative Court and adopt a decision on the applicant's case. Following the Ombudsman's intervention, the Fund adopted a decision granting and refunding the funds to the applicant for the performed health service, in accordance with the instructions of the judgment of the Administrative Court, thus enabling the applicant to exercise his rights.

NP no. 2303/15, 2646/15, 2822/15, 2900/15, 2911/15, 3120/15 и 3121/15

Several complaints of citizens were submitted to the Ombudsman in 2015, citizens who temporarily immigrated abroad and are residing there for 3, 5, and 10 and more than 20 years, due to blocking of their transaction and other bank accounts.

Acting in accordance with these complaints, the Ombudsman established that the Macedonian Radio Television has included these persons in the register of persons obliged to pay the broadcasting fee; therefore, the Public Revenue Office has blocked their accounts for its payment.

The Ombudsman submitted requests to the PE MTV Skopje (accompanied by the required evidence which undisputedly prove that applicants have immigrated abroad, have citizenships in those countries, pay property taxes for the real estate (apartment or house) as for apartment/houses in which they don't live and submitted a confirmation from the Ministry of Interiorfor duly reported stay abroad for a period longer than 3 months, also indicating the year of first immigration (1968, 1970, 2001...).

On the basis of such situation, and by submitting all required evidences (which prove, without any doubt, that the applicants have immigrated abroad, have citizenships in those countries, pay property taxes for the real estate (apartment or house) as for apartment/houses in which they don't live in the Republic of Macedonia and have a confirmation from the Ministry of Interior for duly reported stay abroad for a period longer than 3 months, also indicating the year of first immigration (1968, 1970, 2001...), the Ombudsman indicated the need for MRT to delete these persons, ex officio, from the Register of broadcasting fee payers.

Moreover, during a certain period, MRT acted on such indications and these citizens were deleted from the Register of broadcasting fee payers; however, in September 2015, he informed the Ombudsman that, in order for these persons to be deleted, it is necessary for them to submit a Confirmation issued by the Ministry of Interior on their permanent immigration from the Republic of Macedonia.

Having in mind such request of MRT, the Ombudsman requested the director of MRT to immediately stop this practice since it is legally unfounded, and is unsupported in any regulation, meaning that there is no authority which would issue confirmations with such contents.

Namely, the provisions of the Law on Reporting Residence and Place of Living of Citizens do not envisage the possibility for the citizens of the Republic of Macedonia to be considered as permanently immigrated from the Republic of Macedonia; therefore, there are no legal provisions on the basis of which the Ministry of Interior would commence issuing a Certificate (confirmation) for permanent immigration of citizens.

MRT continued with undertaking of actions on the already submitted requests of the Ombudsman, so that all persons included in this category of citizens shall be deleted from the Register of broadcasting fee payers.





NP no. 2819/15

The Ombudsman acted in accordance with a complaint for protection of rights relating to higher education of a citizen of Tetovo due to the rejection for issuing of a certificate for passed exams by the Faculty of Medicine in Skopje. Following the undertaken activities, the Ombudsman established that the student has passed all exams, and has submitted a request for issuing of a certificate for passed exams; the faculty has conditioned him to first pay the debt, that is, pay for the semester enrolment in order for the certificate to be issued.

The Ombudsman informed the Faculty of Medicine that this conditioning violates the student's rights, that is, the faculty has enabled him to enroll the year and take the exams, although his financial liabilities have not been fully met, and has indicated the actions contrary to the Law on Higher Education. It was requested for the obligation to be met in accordance with the Law on Higher Education and the student who completed the studies in accordance with the study program to be issued the certificate. Acting in accordance with the indications, the Faculty of Medicine has issued the certificate for passed exams to the applicant.

NP no. 1909/15

The district office of the Ombudsman in Shtip, on the basis of an complaint by a group of citizens from the municipalities Kochani and Orizari, initiated a procedure for determining the circumstances regarding the proper complaint of the provisions of the Law on Legalization of Informal Buildings and whether the citizens are placed in unequal position since, inter alia, legalization was carried out on buildings built following its entry into force.

The Ombudsman, acting upon the complaint, intervened in the State Attorney's Office in Kochani and the Primary Public Prosecution Office in Kochani.

The State Attorney for the territory of Kochani, Vinica, Berovo and Delchevo stated that the one is not competent to act.

The Primary Public Prosecutor from Kochani has initially formed a case recorded in the Registry on various items, on which the required measures and activities have been undertaken, and the one was afterwards recorded in the Registry for criminally responsible persons, against certain persons and legal entities, for reasonable doubt of committing a criminal act.

In that segment, request was submitted to the Ministry of Transport and Communications – Department for Administrative Supervision Affairs in Skopje for undertaking of specific activities regarding the performance of supervision on the reported activities by the reported persons, as well as other official persons in the Department of the authority, working in the Kochani municipality.

The procedure in the competent public prosecution is ongoing.

NP no. 2325/15

The citizen T.T. from Skopje submitted an complaint to the Ombudsman requesting for an intervention in the Public Enterprise Macedonian Radio-television (MRT), since although this case refers to a deaf person with hearing impairment of above 60 decibels, his family households is obliged to pay the broadcasting fee.

Acting in accordance with the complaint, the Ombudsman concluded that the one is founded and that, in the specific case, the conditions of the Law on Audio and Audiovisual Media Services are met for that person to be exempted from such obligation.

In that respect, the given indication of the Ombudsman for exemption of the broadcasting fee was accepted by MRT, the relevant citizen was deleted from the Register of broadcasting fee payers, and all issued decisions have been cancelled.





NP no. 632/15

E.I., with former residence in village Slupchane – Lipkovo municipality, current citizen of Kosovo, submitted an complaint to the Ombudsman requesting for protection, since the Unit for Administration of Revenues of the Lipkovo municipality has delivered her a notice for settlement of old debt on the basis of property taxes. The applicant indicated that she neither had nor has any property in Kumanovo; however, the property tax notice was sent each year.

The Ombudsman addressed the Kumanovo municipality – Unit for Administration of Revenues with an Indication that although this case was also treated in 2011 and following the undertaken activities, the unit head was informed that the applicant shall have no consequences from non-payment of the stated notice debt and that no other notices with her name shall be delivered by the Kumanovo municipality, four years later she is facing the same problem, and has indicated measures to be undertaken for serious reviewing of such unfounded charging and upsetting of the applicant.

Acting in accordance with the indication, the Kumanovo municipality had a meeting with Lipkovo municipality and recorded, with minutes, the double registered taxpayers in these municipalities, followed by reaching a proposed decision for permanent write-off of tax indebtedness and deletion of taxpayers from the register of taxpayers of the Kumanovo municipality with determined real estate on the territory of the Lipkovo municipality. The proposed decision was adopted on the session of the Council of the Kumanovo municipality, thus enabling the applicant to exercise her right.

NP no. 3491/15

Citizen P.J. from Skopje, submitted an complaint requesting for intervention by the Ombudsman in the Public Revenue Office – Regional Directorate Skopje (PRO) due to unjustified delayed procedure for establishing property the one owns or disposal with funds higher than the taxed ones.

In addition, although the decisions of the PRO, for the specific case, have been annulled on several occasions by the Administrative Court, during the repeated procedure of this authority, no actions were taken in accordance with the stated legal meaning and given indications of the court since decisions with same wording were repeatedly made.

The Ombudsman, on the basis of the case circumstances and the secured written evidences, concluded that the subject procedure lasts for several years and that the case is held for a longer period of time with the PRO, which are not acting upon it.

As a result of that situation, the relevant citizen is, without any justification, enduring harmful consequences, inter alia, due to prohibited disposal with his property and funds.

The intervention of the Ombudsman for decision-making by PRO was not accepted; a formal answer was given, indicating that the procedure for re-examining the determined actual state is ongoing.

NP no. 466/15

Citizens M.V. from Kichevo submitted an complaint to the Ombudsman's district office against the City of Skopje indicating that although his debt for apartment property tax has been settled, his transaction account has been blocked and the one cannot withdraw his pension.

On the complaint date, telephone conversation was carried out with the responsible persons of the City of Skopje and the Chair municipality, during which all circumstances of the specific case and the complaint justification were presented.

In accordance with the intervention, the citizen's account was immediately unblocked.





NP no. 1287/15

A citizen from Skopje submitted a complaint for protection of rights in front of EVN Macedonia AD – Skopje, due to charging with unrealistic bills for consumed electricity.

The Ombudsman, in accordance with the legal authorizations, addressed EVN Macedonia AD – Skopje, requesting for measures to be undertaken to re-examine and properly resolve the relevant case, that is, to cancel the unrealistic invoices and prepare new ones in accordance with the actual situation on the electricity meter.

Acting in accordance with the Ombudsman's request, EVN Macedonia AD – Skopje informed the Ombudsman that the competent services have cancelled the unrealistic bills for consumed electricity and that a new, corrected bill was prepared.

NP no. 2028/15

Due to unjustified delayed procedure for registration of changes in the real estate Cadastre, a group of citizens from Skopje have submitted a complaint to the Ombudsman against the Real Estate Cadastre Skopje.

Acting in accordance with the complaint, the Ombudsman conducted the required procedure and established that rights and direct property and legal interests of these persons are being violated. Namely, the Cadastre explained the reason for non-realization of the relevant right indicating that the parties have not submitted the required documents – Judgment U. No. 5354/09 dated 23.04.2010, of the Supreme Court, as well as the Decision UP2 No 37-555 dated 28.07.2009 from the Ministry of Transport and Communications.

However, in this case, it cannot be disputed that these evidences can be found in the official records of the Real Estate Cadastre Skopje; moreover, the applicants have also submitted them on several occasions.

However, following the indication of the Ombudsman, the Real Estate Cadastre Skopje did not undertake the required actions for the specific case and the request to immediately act upon the specific request was not accepted.

Moreover, the additional intervention of the Ombudsman to the Sector for Internal Control in the Real Estate Cadastre Agency, for undertaking of actions to review and control the Center's legality of actions, produced no effect since another rejection confirmation was issued for the relevant subject containing an inappropriate explanation – that the parties have not submitted the requested documents.

NP no. 4100/15

Z.N. from Gostivar submitted a complaint to the district office of the Ombudsman in Tetovo due to charging with broadcasting fee as a payer registered at the address of her parents in Tetovo, which was previously her permanent place of living.

The Ombudsman reviewed the documentation and established that the family household in Gostivar in which the applicant currently lives, has a registered broadcasting fee payer, and the liabilities are settled on a regular basis.

Having this situation in mind, the Ombudsman addressed the Public Enterprise Macedonian Radio Television – Skopje indicating that it is necessary to undertake measures to overcome the problem, that is, to delete the name of the applicant from the register of payers.

PE Macedonian Radio Television – Skopje fully accepted the given indications and informed the Ombudsman that the already issued decisions for determining of the broadcasting fee have been cancelled and shall not cause any legal actions, of which the PRO – Regional Directorate Tetovo was, in the meantime, informed.





NP no. 1694/15

B.R. from Skopje submitted a complaint to the Ombudsman requesting for intervention of the Ombudsman in terms of accelerating the procedure for placing of a validity seal of additional decision, adopted by the Commission deciding on denationalization requests in Prilep municipality.

Acting in accordance with the complaint, the Ombudsman addressed the Commission for denationalization in Prilep and requested for information on the procedure phase of the relevant denationalization case.

At the same time, the Ombudsman indicated the established procedure delay on the denationalization request lasting for 12 years, and the need for the Commission to immediately take effective and efficient measures and activities to finally complete the denationalization procedure.

Taking into consideration that the Commission failed to act on the Ombudsman's interventions, although other activities were additionally undertaken (urgencies, telephone contact with a member of the Commission for Denationalization) on the obstruction of operations and the non-professional and inefficient actions, the Ombudsman submitted to the Minister of Finance of the Republic of Macedonia a Special Report and requested for undertaking of effective measures for overcoming of the established situation, followed by receipt of written notification to the Ombudsman by the Commission for Denationalization in Prilep that the seal for validity of the additional decision was placed.

NP no. 3386/15

The person V.M. submitted an complaint to the Ombudsman indicating that although the one is regularly paying all bills as user of the services of PE Vodovod i kanalizacija Skopje, the one has comments on the charging amount since the water meter was not regularly read, resulting into continuous charging for 30 m3 water which the family could not consume.

During the procedure, the Ombudsman established that the subject water meter was not read in the period from 11/2014 to 09/2015, and that no control was made during this period, nor any attempt thereof, whereas the requests with that contents of the applicant were ignored by the competent services of the Enterprise.

The given indication by the Ombudsman to review this case and to correct all bills for the period in which the situation was read, and in future, the charging to be only on the basis of the read water meter situation, was not accepted by the Public Enterprise.

In addition, the non-operations and irresponsible behavior of the competent services and individuals were justified by the PE management only with their given statements, which were not verified with archive number and contained no data on the day, month and year of issue, as well as without additional presentation of facts and evidences of the actual situation, and that the proper internal control was carried out.

NP no 2824/15

The citizen T.L. from Struga submitted an complaint against the Agency for Management with Seized Property Skopje, indicating that following the judgment of the Primary Court Ohrid for seizing of property in criminal procedure, the Agency has blocked his transaction account in Ohridska Banka AD Skopje.

The Ombudsman established that the Agency does not take into consideration the execution limitations since in this case, more than the legal maximum is being withdrawn, that is, 1/3 of the pension.

Therefore, the required actions have been undertaken, and the Agency for Management with Seized Property unblocked the transaction account, and the execution continued with proper complying with the execution limitation provisions.



NP no. 1320/15

The citizen D.S. from Shtip submitted an complaint to the Ombudsman's district office in Shtip on exemption from payment of the broadcasting fee since his wife is a person with 99% reduced visibility on both eyes, proven with medical documentation.

The Ombudsman indicated to the Macedonian Radio Television and the Public Revenue Office – Regional Directorate Shtip the need to undertake measures and actions so as to overcome the problem in a manner in which the household of the applicant shall be exempted from the obligation to pay the broadcasting fee, and to withdraw the already submitted broadcasting fee decisions.

This is a case in which the legally defined conditions for exemption from payment of such a fee are met.

The given indication was accepted by both MRT and PRO, and the family of the applicant was fully exempted from payment of the broadcasting fee.

NP no. 3051/15

F.B. from village Lojane – Lipkovo municipality submitted an complaint to the Ombudsman requesting for protection of rights, since following the request for one-off write-off of debt, the Ministry of Labor and Social Policy has failed to submit the notification.

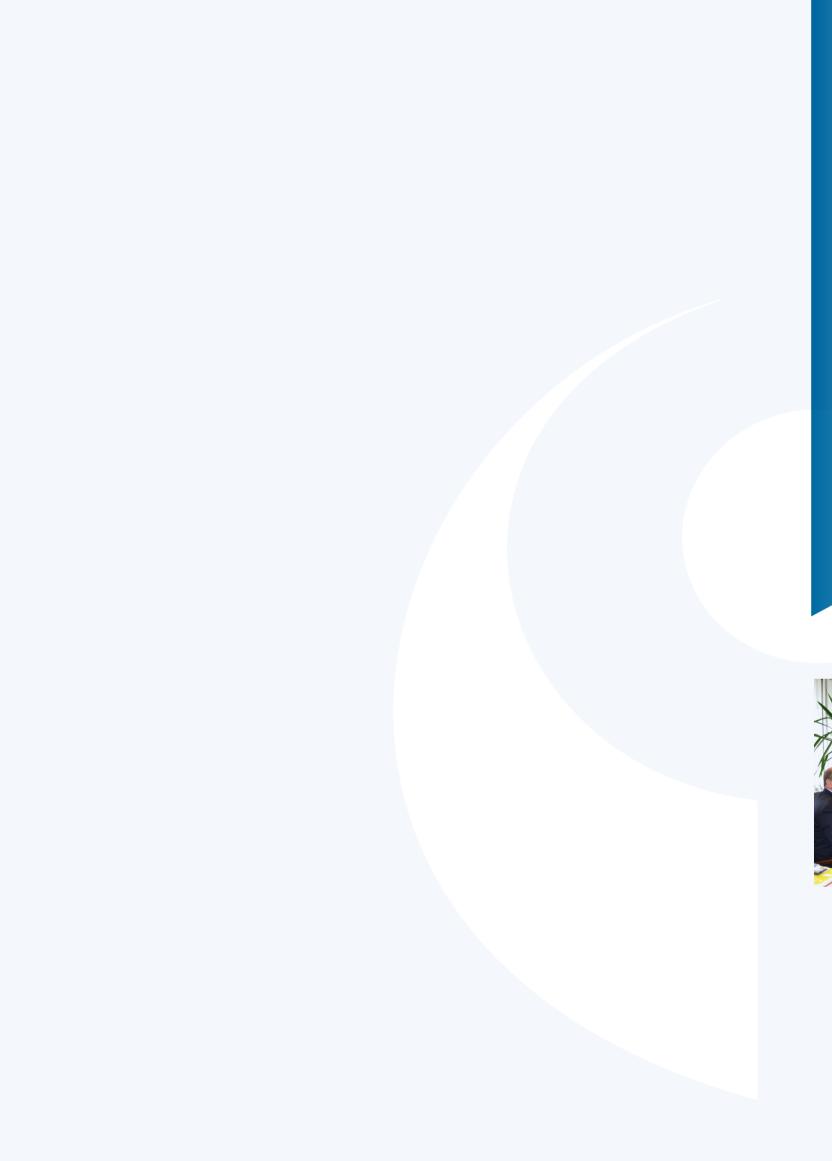
The Ombudsman, acting in accordance with the complaint, established that, in the meantime, notification was submitted to the applicant informing that the one does not meet the conditions for exercising the right to one-off debt write-off and explaining that following the submitted data by the institutions, the Commission concluded that the person does not meet the conditions for one-off debt write-off in accordance with the Law on One-off Debt Write-off of citizens; more specifically, until 31 December 2013, the person had no status of user of social assistance or continuous pecuniary assistance, that is, the applicant and the spouse do not have a status of an unemployed person recorded in the Employment Agency who is actively searching for job longer than 12 months, etc. In the further procedure, the Ombudsman controlled the PI Inter-municipal Social Work Centers in Kumanovo and concluded, without a doubt, that the applicant was a user of social pecuniary assistance till 31.12.2013.

On the basis of the above stated, the Ombudsman addressed the Commission for dealing with requests for one-off debt write-off of citizens with request for re-examination of the request, and indicated that following the actual state determination, a just decision is to be made as regards the compliance with the positive legal regulations.

The Commission of the Ministry of Labor and Social Policy Skopje, accepted the request and indication of the Ombudsman, reviewed the case and made a decision that the applicant meets the requirements for debt write-off, and submitted the debt write-off case to the creditors.







PROMOTION OF HUMAN FREEDOMS AND RIGHTS





Important segment in the operations of the Ombudsman is the promotion which is important for this institution in two respects: strengthening of knowledge and capacities of the state administration authorities, and at the same time, strengthening of the citizens' awareness regarding their rights and the grounds for proper protection.

In 2015, the Ombudsman institution conducted the twinning light project "Promotion of Ombudsman's competences and strengthening of the institutional capacities", which was realized in partnership with the Austrian Ombudsman Board and the Ludwig Boltzmann Institute for Human Rights in the period from May to December 2015.

During these eight months, the twinning partners conducted seventeen activities dedicated to strengthening of the institutional capacities, promotion of institutional competences on local and regional level, as well as increase in the institution's visibility among citizens.

The project commenced in May 2015 with a promotional event marking the beginning of the project. This was followed by trainings relating to the National Preventive Mechanism and the Unit for Children's Rights and Persons with Special Needs. The trainings were attended by employees of the Ombudsman institution, as well as representatives of non-governmental organizations and associations with which the Ombudsman has signed memoranda of cooperation.

The first of the four workshops envisaged with the Project was held in June 2015 and was dedicated to the current refugee/migrant crisis. During the workshop, there were discussions on the improved protection of their rights, and at the same time, the relevant institutions and public were informed regarding the better treatment for this category of persons.

The second workshop was held in September 2015, and the same related to the rights and protection of the category of children in the streets, whereas the third workshop of the twinning project was dedicated to the representation of Roma children in the educational system. The last, fourth workshop was dedicated to the inclusiveness in regular education of children with autistic spectrum of disorders in the Republic of Macedonia. For the needs of this workshop, the Ombudsman institution conducted a research which reviewed the current situation regarding the representation of autistic children in regular, primary education in the schools on the territory of the Republic of Macedonia. Since the workshops were envisaged to transfer the experiences from Austria, experts on the relevant topics were invited to present the situations in their countries, to transfer the experiences and best practices. In addition, their colleagues from Macedonia introduced them to the current problems faced by the state, as well as on the manner in which the problems are overcome. The workshops were attended by representatives of all concerned institutions, bodies, and organizations.

The focus of this Project also included the strengthening of capacities of the institution's district offices. Emphasis was placed on the office deputies as responsible entities for the institution's activities on local level, as well as responsible persons for promotion of the Ombudsman's activities in their district units. Together with the Austrian colleagues, they conducted many activities including trainings on the job, as well as promotion of the institutional term outside of its frames. For the needs of this project activity, promotional activities were carried out in three schools in Bitola, Shtip and Tetovo aimed toward introducing the students of these schools with their rights and freedoms.

One of the Project's pillars dealt with the institution's visibility through learning new methods and acquiring new knowledge for better and more efficient promotion of the institution's competences.

Within the frames of the twinning project, and in cooperation with the Office of the High Commissioner for Refugees in the Republic of Macedonia, the Ombudsman Mr. Ixhet Memeti together with the Chairmen of the Austrian Ombudsman Board, Mrs. Brinek and the UNHCR head for Macedonia, Mr. Arif, an additional activity was realized which was not initially included in the Project's





plan of activities: visit of the Temporary Transit Center "Vinojug" in Gevgelija, for the purposes of viewing the situation in the Center for admission of refugees/migrants. This activity was preceded by another visit realized jointly with the Greek Acting Ombudsman, Mr. Vassilis Karidis and the UNHCR Office in Macedonia, aimed toward perceiving the situation in the admission centers for refugees on both sides of the border between Macedonia and Greece, indicate the irregularities and encourage the authorities to rapidly deal with the observed situations.

Regarding the situation with migrants and refugees in 2015, two additional visits were realized, one in the admission center on the northern border between Macedonia and Serbia, jointly realized with the Serbian Ombudsman Mr. Jankovikj, whereas the other visit to the center "Vinojug" Gevgelija was realized in cooperation with SOS Detsko Selo and the Dutch Ombudsman for Children and the Chairman of the European Network of Ombudsmen for Children, on the occasion of 10 December, the International Day of Human Rights.

All these visits contributed to the informing of the wider public, and mainly the concerned institutions, both in the country and in the region, on the timely restoration of shortcomings and observed situations, and improved treatment of persons transiting through the region, aimed toward protection of their rights.

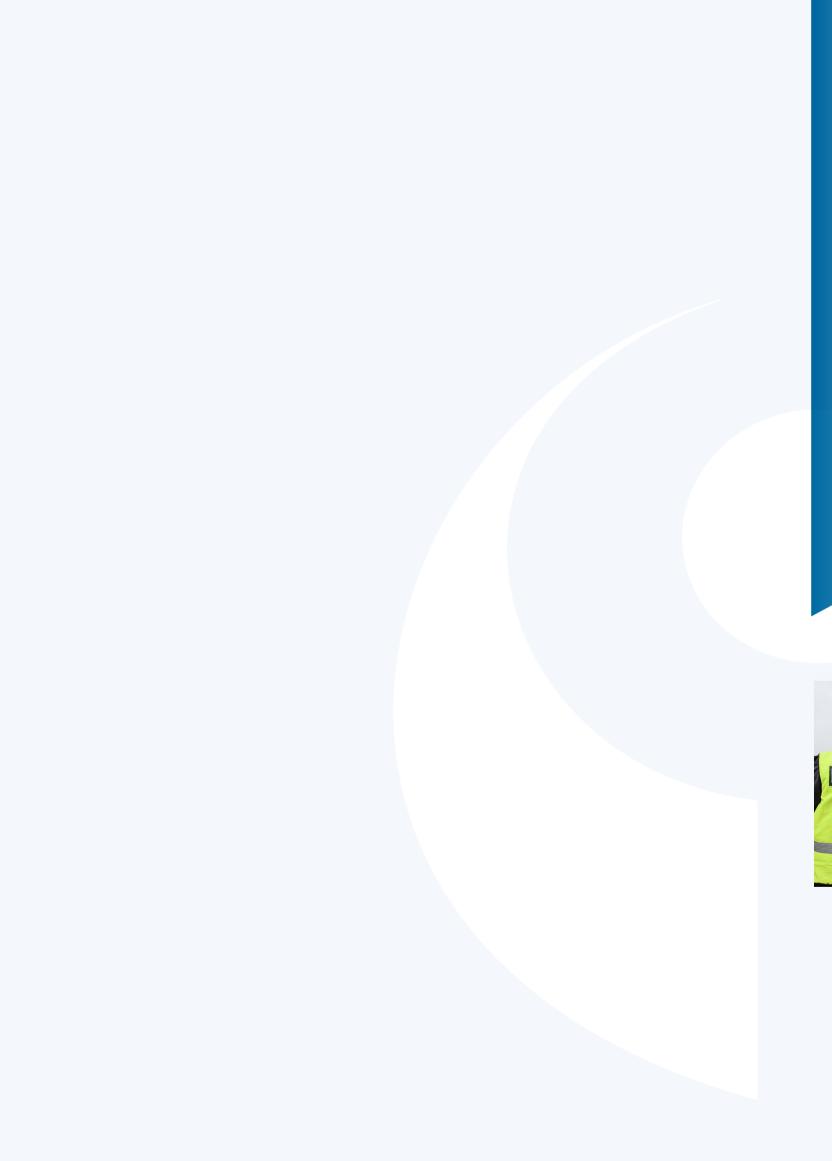
In 2015, the Ombudsman institution signed the Memorandum of Cooperation with the UNHCR Office in Macedonia, thus increasing the level of cooperation with this international organization and opening the path to joint actions on project level. Therefore, in December 2015, the first project was realized for support of the Ombudsman- National Preventive Mechanism. For 2016, other additional activities are envisaged for joint actions and raising of the level of protection of persons – refugees transiting through the territory of the Republic of Macedonia.

This reporting year, the Ombudsman signed a Memorandum of Cooperation with several non-governmental organizations: the Civil Association "MOST", Association for Democratic Initiatives – Gostivar, the Center for Economic Analyses, the First Children Embassy in the World "Megjashi", and the Youth Cultural Center – Bitola, for the purposes of realizing the project "Signpost to Free and Fair Elections" which will contribute to the protection of the election right of the citizens of the Republic of Macedonia. In that context, at the press conference, the Ombudsman invited all stakeholders of the election process to comply and implement election rules, so as to enable the citizens to exercise their election right to free elections with secret voting, without any intimidation, pressures and blackmails. At the same time, encouraging them to immediately and without a doubt report any form of pressure and violation of their rights at the open free of charge phone line 0800 54321 at the Ombudsman's office and in the district offices.

The Ombudsman institution was part of the team for organization of the Conference with the title "Limitation of the right to freedom of movement of Roma at border crossings exiting", which was realized in October 2015 in cooperation with the OSCE Mission and the Helsinki Committee for Human Rights.

Within its project activities, the Ombudsman realized two roundtables in 2015 dedicated to children and youth with educational and social problems and poor behavior accommodated in institutions, as well as to the situation of autistic children and their treatment in the Republic of Macedonia.





PREVENTION AGAINST TORTURE AND OTHER TYPE OF CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT





Although during the reporting year, due to non-provision of consents by the Ministry of Finance, the National Preventive Mechanism continued to work with drastically reduced capacities, resulting into zero employees in September 2015, significant part of the planned activities and visits envisaged with the Annual Work Plan for 2015 were still realized.

This reporting year, the National Preventive Mechanism continued with the engagement of external associates of various profiles, thus enabling a multidisciplinary approach in terms of conducting the visits, guided by the recommendations of the Association for Prevention of Torture. Experts of the Association of Psychiatrists, the Association of Forensic Experts of the Forensic Medicine Institute, the Macedonian Association of Young Lawyers, the Association for Criminal Law and Criminology, Association of Social Workers of the City of Skopje, Association of Nurses, Association of Special Education Teachers, and the Chamber of Psychologists of the Republic of Macedonia were included during the visits.

In addition, the National Preventive Mechanism established close cooperation with the Office of the High Commissioner for Refugees of the United Nations (UNHCR), resulting into signing of a Memorandum for Cooperation between the Ombudsman and this organization.

During 2015, the National Preventive Mechanism conducted 24 visits to institutions and places for deprivation of liberty, within the frames of which 4 visits were carried out to prison institutions (prison Skopje, detention Skopje, prison Tetovo and the Arrest Division in the Correctional Facility Idrizovo).

In the first half of 2015, the National Preventive Mechanism conducted 2 consecutive control visits to police stations (PS Gazi Baba and PS Kochani), whereas in the second half, 7 additional visits were carried out to police stations as follows: PS Kisela Voda, PS Gazi Baba, PS Bit Pazar, PS Centar, and PS Karposh, as well as visits to the police stations in Prilep and Negotino.

The visits to the police stations PS Kisela Voda, PS Gazi Baba, PS Bit Pazar, PS Centar and PS Karposh, were conducted by the National Preventive Mechanism team immediately following the held demonstrations in May, under the moto "Stop Police Brutality". Upon acquiring information of detained persons, the National Preventive Mechanism visited the police stations and interviewed the detained persons as regards their treatment and the exercising of the rights during deprivation of liberty. On the basis of the conducted visits to these police station, information was submitted to the Ministry of Internal Affairs.

Within the frames of realization of the Twinning Project conducted in cooperation with the Austrian Ombudsman and the Ludwig Boltzmann Institute, the National Preventive Mechanism conducted 4 visits: visit to the Public Institution for rehabilitation of children and youth, Skopje, the Public Institution for accommodation of children with educational and social problems-Skopje, the Public Institution for accommodation of children and youth and JZU Gerontology Institute "13 Noemvri" Skopje – Section "Mother Teresa". Individual reports were prepared for the visits, and the same were submitted to the competent ministries and the heads of the institutions.

This reporting year was marked by the refugee crisis; therefore, in the first half of the year, two additional visits were carried out to the Center for Foreigners in Gazi Baba, following the receipt of information on uprising and inhuman treatment in this institution. Following the conducted visits to the Center for Foreigners, the Ombudsman - National Preventive Mechanism submitted an information to the line ministry, held a press conference, and requested for closing of the center due to the substandard conditions in which persons with illegal entry in the state are staying. At





the same time, at the held press conference, the Ombudsman stated his conclusions on the illegal detention of foreigners due to their status of witnesses in penal procedures, and at the same time, asked for the asylum right to be enabled. The National Preventive Mechanism also conducted visits to the Center on the basis of received complaints on individual cases, based on which procedures were later opened for protection of the rights of individual persons. In addition, the National Preventive Mechanism also conducted an additional visit to the Center for Asylum Seekers.

The situation with the refugees/migrants was also in the focus of the Conference held on 26.06.2015 in Skopje, within the frames of the Twinning activities and in cooperation with the colleagues of the Austrian Ombudsman and the Ludwig Boltzmann Institute, on the occasion of the International day for protection of victims against torture. Some of the international organizations for protection of human rights, which is the UNHCR, and the Committee for Prevention of Torture of the Council of Europe addressed the conference. The National Preventive Mechanisms of Austria and Slovenia also contributed by sharing their experience as regards the protection of the rights of asylum seekers and the illegal migrants in these countries.

In 2015, the National Preventive Mechanism also prepared and submitted an alternative report to the Committee of Torture of the United Nations. In addition, it provided own opinion on the Draft National Strategy for development of the penitentiary system in the Republic of Macedonia, submitted by the Administration for Execution of Sanctions.

The annual report of the National Preventive Mechanism for 2014 was presented on 25.06.2015, and was later distributed to the competent bodies and international institutions. The same included the thematic part dedicated to forced hospitalization in psychiatric institutions and compliance with human rights in these institutions.

The National Preventive Mechanism was also internationally active, and participated, as representative, at the 25th anniversary of the Committee for Prevention of Torture at the Council of Europe, as well as the meetings of the National Preventive Mechanism network of Southeast Europe, which were held in Tirana, Albania.

In addition, the National Preventive Mechanism has realized a study visit of its colleagues in Austria within the frames of the Twinning Project, thus being able to be familiarized with the manner in dealing with illegal migrants and asylum seekers in the Police station in Vienna, as well as in an admission center of asylum seekers.



OPERATIONS NOT RELATED TO CASES AND OTHER ACTIVITIES



Research, initiatives, and opinions

In addition, whenever the Ombudsman assessed that the bodies to which the one has indicated the violation of a particular right have failed to act, thus obstructing his work, he would directly inform the higher authorities with special reports or information.

In that segment, and due to the non-serious and ignorant attitude of the Administration for Security and Counter Intelligence in the Ministry of Interior and the Public Prosecution Office of the Republic of Macedonia, which have failed to submit the requested explanations, information and evidence for months, the Ombudsman submitted a Special report on obstruction of his work to the Assembly of the Republic of Macedonia.

Moreover, by analyzing the provisions of the Law on Health Protection in the part relating to enforcement, interruption, and completion of the specialization term, the Ombudsman observed situation which shall not contribute to the efficient implementation of the specialization, as well as to the improvement of the education quality of the holders of secondary and tertiary health; hence, the one proposed amendments to two articles of the Law on Health Protection.

One of the current topics treated by the Ombudsman in the reporting year and pertaining to the protection of human rights and freedoms, related to the amendments of the Law on Police regarding the coercion means in case of gatherings. By analyzing the provisions pertaining to this sphere, the Ombudsman submitted to the Ministry of Interior and **Opinion on the proposed Law amending and supplementing the Law on Police.** In the Opinion, the Ombudsman emphasized that he considers the limitation of use of coercion means as rather positive, as well as the closer definition of what chemical means are considered. However, on the other side, he expressed negative opinion on the newly-envisaged coercion means, and that the Law amendments do not meet the standards regarding these means.

Regarding the realization of social protection rights, the Ombudsman established several situations due to which the citizens are unable to exercise some of the defined social protection rights. This referred to the inappropriate complaint of legal provisions, untimely treatment of submitted requests for exercising of the social protection rights, withdrawal of the awarded social right due to the receipt of pecuniary means, as well as the non-taking of actions on the given directions of the Administrative Court in the complaint procedures for administrative disputes.

Due to the established situations, the Ombudsman submitted to the Ministry of Labor and Social Policy an **Information with proposed measures** for the purposes of overcoming the perceived situations and exercising of the citizens' rights.

The significantly increased number of complaints of the citizens pertaining to the manner of determining the broadcasting fee, as well as the non-diligent keeping of the register of payers for this fee resulted into situations that all members of a single household are presented with decisions and blocked bank accounts, as well as due to the indolent attitude of the Supervisory Board of the PE Macedonian Television, were the main reasons for the Ombudsman to submit a **Special report** to the **Assembly of the Government of the Republic of Macedonia**, informing of the poor approach in terms of defining and collection of the broadcasting fee and the non-diligent keeping of the register of payers of this fee, and has provided recommendations for overcoming of this



situation.

In reference with this issue, the Ombudsman additionally submitted to the Assembly of the Republic of Macedonia a request for **authentic interpretation of Article 136 paragraph one line 1 of the Law on Audio and Audiovisual Services** for the purposes of defining of the term "family household".

Namely, the need for this request originates from the activities taken by the Ombudsman on the complaints relating to charging of the broadcasting fee, more specifically, the need to determine whether the persons living alone, homeless persons, persons accommodated in the homes for elderly persons and similar institutions are included in the category "family household" and are subjected to payment of this fee.

The Unit for protection of rights of children and persons with special needs conducted several surveys during the reporting year on observing the situations in this sphere. The research related to the inclusion of children with autistic spectrum of disorders in the primary schools 2014/2015, presented in the **Information on the situation in terms of numbers of children with autistic spectrum of disorders and readiness for primary schools for their inclusion and quality education** was perceived with special interest by the teaching personnel in the primary schools, as well as by the concerned parents of children with such disorder types. Out of the responses of 256 primary schools, the Ombudsman established that the children with autistic spectrum of disorders are included in the regular primary education; however, not every school is ready to secure the proper education to the autistic child, in accordance with his/her needs. Schools do not have the required personnel, space or material equipment with the necessary teaching means / materials. On the other side, the teaching personnel is insufficiently (not at all trained in some schools) trained for working with children with autistic spectrum of disorder.

Having in mind the importance of inclusive education for all children, the Ombudsman recommended creation of basic preconditions in the primary schools, not only for integration of children with autistic spectrum of disorders, but also for their quality and efficient inclusion in the regular education. In that respect, to undertake measures for securing spatial conditions for working with autistic children in the schools, and measures for proper adjustment of the teaching materials, in accordance with the needs of the autistic children.

By working in the field of inclusion of smaller communities, such as the Roma community, the Ombudsman conducted a special research on the number of inclusion of Roma in the primary education. The research has shown that the number of enrolled Roma children in the first grade is not the same at the beginning and end of the school year. The reasons for the previous are as follows: leaving abroad, seasonal work of the parents, relocation from one area/city to another, as well as the lack of interest of the parents for regular attending of lessons of their children. In addition, while establishing the classes for first grade students, one does not always take into consideration the equal distribution of Roma students among students of other ethnical communities, in accordance with the number of established classes.

For the purposes of overcoming this situation, the Ombudsman provided several recommendations, as follows: the Ministry of Education and Science, the local self-government and the schools, each within their own competences, to undertake measures so as to retain the Roma students in schools, and to overcome the problem with dropout of Roma students in the primary education. Furthermore, to realize capacities with increased inclusion of the Roma parents for the purposes of strengthening their capacities, raising the awareness on the importance of education and activities among parents and children of various ethnical origin for the purposes of complying with differences and raising the degree of inter-ethnic integration in all segments of the educational process.

In order to perceive the situation and problems faced by the citizens in the exercising of their right to legalize informal buildings, as well as for the purposes of determining the reasons for delayed procedures in front of the competent authorities, the Ombudsman conducted a research and addressed all local self-government units in the Republic of Macedonia, requesting for submission of data which could be used to establish the actual situation regarding the complaint of the Law on

treatment of informal buildings. The Ombudsman used the received data to prepare an Information on the situation with the implementation of the procedure determining the legal status of informal buildings, which was submitted to all municipalities.

For the purposes of unobstructed exercising of the citizens' rights and diligent implementation of the entire process for determining the legal status of the informal buildings, the Ombudsman recommended to the local self-government units to complaint to the applicants not to wait the final legal deadline for submission of geodetic reports, and provided the relevant recommendations.



COMMUNICATION AND COOPERATION OF THE OMBUDSMAN WITH INTERNATIONAL BODIES AND ASSOCIATIONS





Cooperation with international institutions and bodies

During this reporting year, the Ombudsman had an active role in terms of international communication and cooperation.

Within the frames of its international activities, the Ombudsman submitted an Information to the Committee on Elimination of Racial Discrimination of the United Nations, in which it presented its findings and conclusions on the compliance and implementation of the Convention on Elimination of Racial Discrimination which is ratified by the Republic of Macedonia, and at the same time, has organized the public viewing of the Committee's session on which all relevant bodies and organizations dealing with the discrimination issue were invited and participated.

During the reporting year, the Ombudsman submitted to the Committee on Human Rights of the United Nations an Information on the compliance and implementation of the International Covenant for Civil and Political Rights. Both documents contain quantitative and qualitative data on the undertaken activities for protection of the citizens' rights guaranteed with these two documents.

On the occasion of the 25th anniversary of the Committee for Prevention of Torture of the Council of Europe, representative of the National Preventive Mechanism participated at the Conference held in Strasbourg, France, attended by representatives of the Committee for Prevention of Torture of the Council of Europe, the Sub-committee for Prevention of Torture of the United Nations, National Preventive Mechanisms of other countries and other international organizations. At the conference, there were discussions on the issue of fight against torture in police and prisons, health protection in correctional institutions, treatment of minors in detention areas, enforcement of solitary confinement, as well as the need to develop new standards in psychiatric institutions.

As member of the European Network of national institutions for protection of human rights, the Ombudsman participated at the Annual assembly of the European Network of Ombudsmen in Utrecht, The Netherlands, where reports were submitted on the previous work of the network and the plans for the future period, followed by selection of managing persons, bodies, and committees.

The Ombudsman was also represented at the Conference "Freedom of expression – precondition for democracy", organized by the Council of Europe, held in Strasbourg, France. The Conference was attended by representatives of 47 member states of the Council of Europe, and the objective of this event was to develop the awareness of the Council of Europe member states on the role and responsibility of the Council of Europe in terms of realization of the freedom of expression in Europe, with emphasis on the complaint of the European Convention on Human Rights.

The Ombudsman participated at the working meeting organized by the European network of national institutions for human rights and the Administration of the Ombudsman for persons with disabilities of the Republic of Croatia. During the first working meeting, there were discussions on the level of implementation of the Convention on the rights of persons with disabilities and the Optional Protocol to the Convention on the rights of persons with disabilities, by the member states of the Network who have ratified the Convention.



Cooperation at European level

In organization of the European Network of Ombudsmen in Warsaw, Poland, the tenth National Seminar of Ombudsmen was held, with the title "Ombudsmen against discrimination", on which the Ombudsman also participated. The focus of this event related to discrimination, situation with exercising of the rights of elderly people and persons with disabilities in Europe, national minorities, as well as the situation with the refugees/migrants in Europe.

"Role of the national institutions for human rights in conflict and post-conflict situations" was the topic of the International conference held in Kiev, Ukraine, participated by a representative of the Ombudsman's Office. The emphasis of this conference was also placed on the issues related to refugees and internally displaced persons. The Conference participants have adopted the "Kiev declaration on the role of National institutions for human rights in conflict and post-conflict situations".

Within the frames of the Program for support of parliaments in the process of enlargement of the countries of Western Balkans and Turkey, upon an invitation of the European Parliament, and in cooperation with the European Ombudsman in Brussels, Belgium, a seminar was held on the topic "Role of ombudsmen in contemporary parliamentary democracies – regional perspective", on which the Ombudsman participated. The seminar emphasized the need and importance for strengthening of the communication and cooperation between Ombudsmen and Parliaments, in terms of advancement of systems for exercising and protection of human freedoms and rights.

During this reporting year, the third International Symposium of Ombudsman institutions was held in Ankara, Turkey, which placed focus on the crisis with refugees and migrants, as well as the structure of national institutions for human rights with special emphasis on finding assistance mechanisms for the purposes of more efficient implementation of the Ombudsmen's recommendations.

Cooperation in the region

Upon an invitation of the Office of Ombudsmen for human rights of Bosnia and Herzegovina, the Ombudsman participated at the Annual Conference, on which the one had an address on the topic "Law on Prohibition against Discrimination, way to better protection mechanisms".

The Ombudsman also contributed to the study visit in Zagreb, Republic of Croatia, dedicated to the exchange of experience between institutions and organizations working on the issue related to gender-based violence, exchange of good practices in the suppression of violence on women and securing of social services to the victims of gender-based violence and women victims of human trafficking.

In regional terms, the Ombudsman realized fruitful cooperation with the Office for protection of citizens of the Republic of Serbia. The focus of both offices was the situation with the refugees and migrants transiting through the countries of the Western Balkans. In order to alarm the wider public, a preparatory meeting was first held, preceding the holding of the Regional conference dedicated to this topic. With representatives of the Ombudsman institutions and other international organizations, the Conference was held in Belgrade, Republic of Serbia, with the title "Ombudsman/National institutions for human rights – Challenges for human rights of refugees and migrants in conditions of crisis". During the panel sessions, there were discussions on the challenges faced by the countries through which refugees/migrants are transiting, as well as by the countries which are their final destination, the protection of rights of refugees and migrants, and the impact of ombudsman institutions in the creation of positive policies of the countries toward these people.

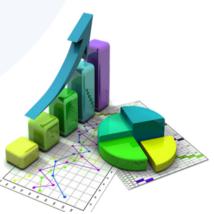


The Ombudsman also participated and addressed the workshop with the title "Realization of rights of seekers of international protection", which was held in Tirana, the Republic of Albania, during which there were discussions of the current situation in the countries of the Western Balkans and the role of Ombudsmen in terms of protection of the rights of migrants. During the workshop, the ombudsmen of the region, as well as the representatives of a great number of organizations dealing with the issue relating to protection of the rights of refugees, have exchanged opinions on the current crisis with the refugees/migrants, as well as on the manners for improvement of the cooperation between the countries of the region, for the purposes of ensuring more humane treatment of these persons.



STATISTICAL DATA







During the reporting year, the Ombudsman acted upon a total of 5.336 complaints, of which 4.403 complaints of 4.584 applicants (citizens – applicants, organizations, associations) were received in the reporting period, and the remaining 933 were transferred from the previous year.

Most of the complaints, 3.370, were delivered in person, by the applicants in the Ombudsman's offices, 596 by mail, 249 by e-mail, 115 through the website, 38 by telephone calls, 4 by telefax, and 31 complaints were formed on own initiative.

Преглед бр.1

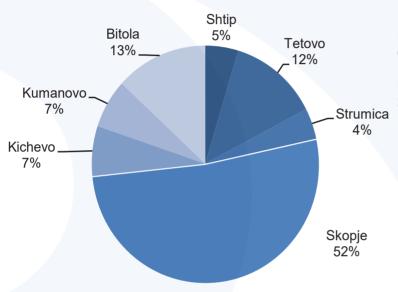
			F	REVIE	N ON	RESE	VED (СОМР	LAIN	ΓS						
	20	08	20	09	20	10	20)11	20	012	20	013	20)14	20)15
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Non-discrimination and adequate and equitable representation	21	0,69	20	0,55	16	0,4	42	0,99	32	0,74	51	1,35	66	1,55	53	1,2
Police procedures	236	7,81	252	6,94	238	5,89	179	4,21	220	5,06	177	4,68	173	4,07	156	3,54
Civil states and other interior affairs	132	4,37	154	4,24	169	4,18	126	2,96	156	3,59	97	2,57	85	2	90	2,04
Judiciary	883	29,22	744	20,5	757	18,7	732	17,2	710	16,34	732	19,37	901	21,2	850	19,32
Social protection	115	3,81	95	2,62	140	3,46	193	4,53	240	5,52	206	5,45	279	6,57	382	8,67
Labor relations	253	8,37	389	10,7	365	9,03	412	9,68	306	7,04	246	6,51	299	7,04	265	6,02
Housing relations	34	1,13	57	1,57	89	2,2	65	1,53	57	1,31	76	2,01	36	0,85	42	0,95
Health protection	69	2,28	72	1,98	93	2,3	115	2,7	166	3,82	128	3,39	125	2,94	79	1,79
Pension and disability insurance	180	5,96	181	4,98	159	3,93	237	5,57	241	5,55	224	5,93	221	5,2	175	3,97
Education, science, culture and sport	39	1,29	49	1,35	48	1,19	45	1,06	35	0,81	34	0,9	21	0,49	41	0,93
Children's rights	145	4,8	157	4,32	111	2,75	144	3,38	161	3,7	116	3,07	124	2,92	158	3,59
Urban planning and construction	162	5,36	170	4,68	170	4,2	146	3,43	155	3,57	140	3,7	168	3,95	168	3,81
Environment	15	0,5	21	0,58	20	0,49	26	0,61	35	0,81	20	0,53	26	0,61	16	0,36
Finances	48	1,59	50	1,38	71	1,76	101	2,37	130	2,99	106	2,8	407	9,58	865	19,64
Property - legal relations	317	10,49	361	9,94	401	9,92	360	8,46	272	6,26	261	6,9	239	5,62	224	5,09
Consumers' rights	147	4,86	277	7,63	553	13,7	673	15,81	948	21,81	646	17,09	486	11,44	368	8,36
Penitentiary – correctional and educational –			347	9,55	395	9,77	352	5,27	278	6,4	247	6,53	274	6,45	257	5,84
Persons with special needs									10	0,23	10	0,26	11	0,26	9	0,2
Census							12	0,28	3	0,07						
Eelectoral rights							90	2,11			42	1,11	78	1,84	2	0,05
Other	226	7,48	236	6,5	248	6,13	206	4,84	191	4,39	221	5,85	230	5,41	203	4,61
TOTAL:	3022	100	3632	100	4043	100	4256	100	4346	100	3780	100	4249	100	4403	100



In 2015, the direct admission of citizen in the Ombudsman's office in Skopje continued, as well as in the offices in Bitola, Kichevo, Tetovo, Kumanovo, Shtip and Strumica. Compared to last year, this reporting year, the number of citizens admitted for interviews has increased by 500, that is, a total of 8.500 citizens were admitted. A great number of the interviewed citizens were advised of the legal opportunities to exercise their rights. Some of the citizens, although informed of the fact that the Ombudsman is not competent to act, due to their material position, and the impossibility to engage a lawyer, are still addressing the Ombudsman.

Having this situation in mind, the Ombudsman repeated the position from last year, that is, recommended the strengthening of the system for free-of-charge legal assistance.

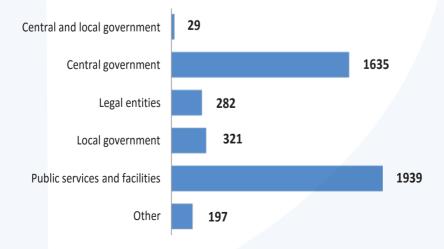
Image No.1



This reporting year, the Ombudsman's office in Skopje acted upon 2.277 complaints, the office in Bitola upon 579, in Tetovo upon 558, in Kichevo upon 301, in Shtip upon 206, and in Strumica upon 187 complaints.

Out of the total of 4.403 complaints in 2015, most of them, 1.939 or 44,04% related to violated rights by the public services and institutions, 1.635 or 37,13% related to violation of rights by the central authority, in 321 complaints or 7,29% there is violation of the rights by the local authorities, in 282 complaints or 6,40% there were violations of the rights by the legal entities, in 29 complaints or 6,66% there were violations of the rights by both the central and local authorities, and in 197 complaints or 4,47%, the applicants complained of violated rights by other entities.

Chart No.1



Most of the citizens – applicants, who declared their ethnical affiliation are Macedonians 1.753 or 62,50%; 736 or 26,24% are members of the Albanian ethnical community; 125 or 4,46% are members of the Roma ethnical community; 91 or 3,24% are members of the Turkish ethnic community; 34 or 1,21% are Serbs; 24 or 0,86% are Bosniaks; 17 or 0,61% are members of the other ethnical communities, 13 or 0,46% are Vlachs, and the lowest number of complaints, that is 12 or 0,43% were submitted by Macedonians-Muslims. During the reporting year, out of the total number of 4.529 citizens-applicants, 1.724 or 38,07% have not declared their ethnic affiliation.

Overview No. 2

			R	EVIEV	V OF CC	MPLIA	NANT	S							
		P	CROSS	DOM	IAINS B	ASED (ON ETH	INICIT	Υ						
AREA	Complaints received in 2014	Anonymous	Number of formed case upon a self-initiative	Organization (Association)	Number of complainants	Macedonians	Albanians	Serbs	Roma	Macedonians – Muslims	Bosniaks	Vlachs	Turks	Ethnicity not declared	Other
Non- discrimination and adequate and equitable representation	53		2	4	47	12	7		9			1	2	16	
Police procedures	156		3	1	154	53	24		9	2	1		2	62	1
Civil states and other interior affairs	90			1	89	22	34	3	9		1		5	14	1
Judiciary	850	1	1	5	846	389	107	5	13	4	3	1	19	304	1
Social security and protection	382		2	1	389	117	99	2	30		3	2	9	125	2
Labor relations	265	3		4	261	103	27	4	7			1	7	110	2
Housing relations	42				42	23	1	1						17	
Health protection	79		1	1	78	35	6		4					33	
Pension and disability insurance	175	1		2	172	85	26	2	5	1			1	52	
Education, science, culture and sport	41			1	40	14	3		1			3		19	
Children's rights	158		10	11	186	37	15		5		1	1		127	
Urban planning and civil engineering	168	1		4	274	75	16		3				1	179	
Environment	16		2	2	12	5								7	
Finances	865		1	1	865	401	272	9	10	3	8		26	132	4
Property-legal relations	224			1	224	107	12	2	2		2	3	6	90	
Consumers' rights	368	1	1	4	375	169	32	4	13	1	2	1	6	146	1
Penitentiary – correctional and educational – correctional	257	1	6	5	245	22	22		4		1		3	193	
Personal with special needs	9				9	1	2				1			5	
Election rights	2				2	2									
Other	203	1	2	7	219	81	31	2	1	1	1		4	93	5
TOTAL:	4403	9	31	55	4529	1753	736	34	125	12	24	13	91	1724	17



In accordance with the place of living of the applicants, most of the applicants are from Skopje, which is 1.578, followed by complaints of applicants from: Tetovo, Bitola, Kumanovo, Kuchevo, Strumica, Shtip, Prilep, and from the other larger urban environments, as well as from other countries. It can be observed that most of the applicants live in the places where the Ombudsman's district offices are located.

Overview No. 3

			EVIES		
			ED COMPLAINTS		
			ES OF FOREIGN COMPLAINANTS		
City		Year 2015	City/state	Year 2014	Year 201
Berovo	17	7	Ohrid	108	88
Bitola	414	493	Pehcevo	15	1
Bogdanci	6	2	Prilep	91	113
Valandovo		5	Probistip	19	8
Veles	68	46	Radovis	21	27
Vinica	13	18	Resen	12	27
Debar	18	18	Skopje	1655	1578
Delcevo	9	12	Struga	51	41
Demir Hisar	19	9	Strumica	166	172
Demir Kapija		2	Sveti Nikole	19	11
Dojran	2	1	Tetovo	339	529
Gevgelija	45	31	Stip	149	167
Gostivar	69	86	Albania		1
Zletovo	1	1	Austria		1
Kavadarci	36	36	Bosnia and Herzegovina	1	
Kicevo	189	225	Bulgaria		1
Kocani	51	42	Belgium		1
Kratovo	10	15	Germany	1	3
Kr. Palanka	29	34	Kosovo		5
Krusevo	11	7	Serbia	2	1
Kumanovo	340	335	Hungary		1
M.Kamenica	3	1	Croatia	1	
Мак.Brod	18	17	Sweden	1	
Mavrovo	4	3	Switzerland		
Negotino	33	19	No city or state selected	193	162
			TOLAL	: 4249	4403

Data according to areas

Most of the complaints were received in the field of: finances and financial operations 865 or 19,65%; judicial area 850 or 19,31%; social protection 382 or 8,68%; consumer rights (communal and other fees) 368 or 8,36%; employment relations 265 or 6,02%; correctional and penal institutions 257 or 5,84%; property and legal area 224 or 5,09%; pension and disability insurance 175 or 3,97%; urbanism and construction 168 or 3,82%; protection of rights of children 158 or 3,59%;

in the field of protection of rights in police authorizations 156 or 3,54%; civil situations and other internal affairs 90 or 2,04%; health protection 79 or 1,79%; non-discrimination and appropriate and just representation 53 or 1,20%; housing relations 42 or 0,95%; education, science, culture, and sports 41 or 0,93%; environment 16 or 0,36%; children and persons with special needs 9 or 0,20%; election rights 2 or 0,04%; as well as for other areas for which 203 or 4,61% complaints were received.

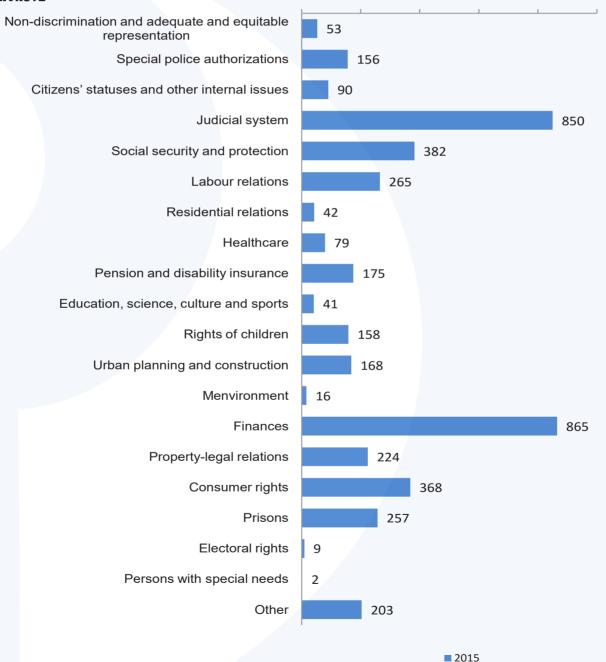
Overview No.4

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2015 ACROSS DOMAINS																		
										ner of c	losing							
			s yea			a self-	-io			Violations found					¥	nd Idate		
AREA	Received in 2015	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Number of formed case upon initiative	With decision for termination non-initiation of procedure	Resolved in another manner	Legal advice	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	53	51	31	84		2	27			46	10	35	1				72	12
Police procedures	156	155	52	208		3	117	1		29	11	8	10	6			137	71
Civil states and other interior affairs	90	90	47	137			39	1		40	36	3	1	2			79	58
Judiciary	850	851	146	996	1	1	705	9		130	120	1	9			2	836	160
Social protection	382	390	89	471		2	263		1	152	146	2	4	2			412	59
Labor relations	265	265	102	367	3		174	1	15	118	45	44	29				282	85
Housing relations	42	42	10	52			38			11	5	6					49	3
Health protection	79	79	56	135		1	66	1	2	38	34	3	1	2			106	29
Pension and disability insurance	175	174	45	220	1		128		1	61	56	2	3				188	32
Education, science, culture and sport	41	41	2	43			30			11	6		5	5			36	7
Children's rights	158	197	34	192		10	93		10	74	57	15	2	4		1	175	17
Urban planning and	168	278	40	208	1		135	7		28	21	4	3				168	40
Environment	16	14	2	18		2	13			2	1		1				14	4
Finances	865	866	52	917		1	252	8	2	520	481	15	24				758	159
Property – legal relations	224	225	46	270			158	5		80	67	6	7				236	34
Consumers' rights	368	379	85	453	1	1	308	2	2	88	71	8	9			7	392	61
Penitentiary – correctional and educational – correctional institutions	257	250	40	297	1	6	193		15	41	32	5	4	1		1	246	51
Persons with special needs	9	9	3	12			5			5	5						10	2
Electoral rights	2	2		2						2	2						2	0
Other	203	226	51	254	1	2	154		6	38	32	2	4				195	59
TOTAL:	4403	4584	933	5336	9	31	2898	35	54	1514	1238	159	117	22		11	4393	943



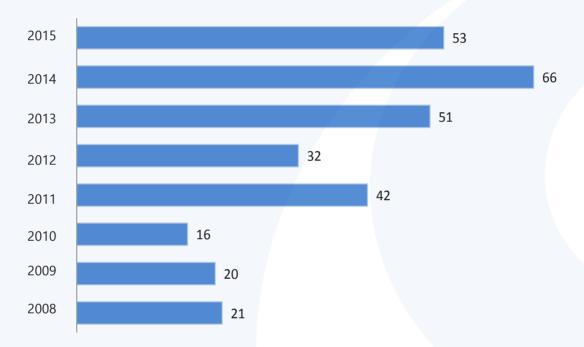
In 2015, the complaints of the citizens in the field of finances and financial operations has continued to increase, resulting into doubling of their numbers, thus exceeding the number of submitted complaints in the judicial area, which were in the largest number in the past. There was significant increase in the number of complaints of citizens in the field of education, science, culture, and sports. In addition, there was increase in the number of complaints of the citizens in the field of social security and social protection as compared to the previous reporting year. Although this reporting year did not observe any positive changes in terms of the approach and use of the health protection and insurance of citizens, according to the Ombudsman, the reduction in the number of citizens requesting for protection in the health area in this period is due to the obstruction of work of the Ombudsman by the Ministry of Health, established in the previous reports.

Chart No. 2



During the reporting year, as regards the non-discrimination and appropriate and just representation, a total of 53 complaints were received, of which most of them, that is 18, related to the discrimination on the grounds of ethnical affiliation. Out of total of 84 complaints on which the Ombudsman acted upon, in 46 cases violations have been established, followed by submission of indications and recommendations to the competent authorities. In 10 cases, the indications and recommendations of the Ombudsman were accepted, and one case is pending the answer. In 35 cases, the Ombudsman, following the establishment of a violation, undertook all legal activities in its competence, and the authority by not accepting the indication/ recommendation of the Ombudsman, has failed to acknowledge the discrimination, due to which the citizens were advised to seek protection by court means.

Chart No. 3

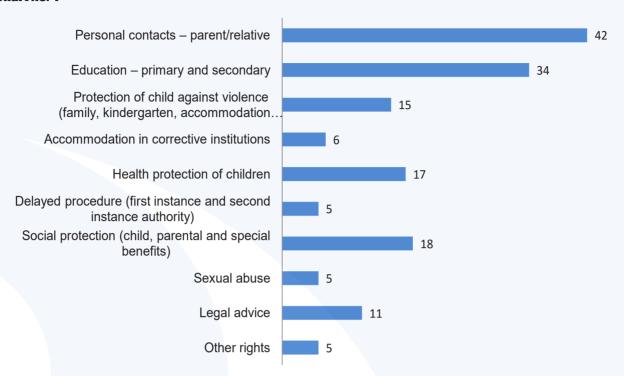


During the reporting period, there was significant increase in the number of submitted complaints in the field of rights of children. Out of total of 158 complaints, 42 or 26,58% relate to rights of the child in the family, that is, on the realization of personal relations and direct contacts with the parent with whom the child is not living, 34 complaints or 21,52% related to violation of the right to primary and secondary education, 15 or 9,49% related to violence on children in the family, kindergarten, school, accommodation institution and other body/ institution, 6 or 3,80% related to rights in terms of accommodation in institutions and correctional actions, 5 or 3,16% related to violation of rights due to child abuse, delayed procedures in front of the competent authority, and other rights of children, and in 11 complaints or 6,96%, the Ombudsman provided legal advices aimed toward realization of the rights of children.

During this reporting year, the Ombudsman also established the continuation of violation of rights of children in several areas, that is, the child is still not respected as an entity of rights, and the adopted decisions are not always in the child's best interest.



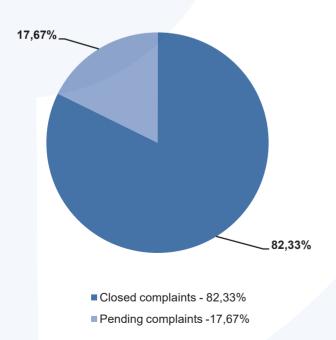




Procedures

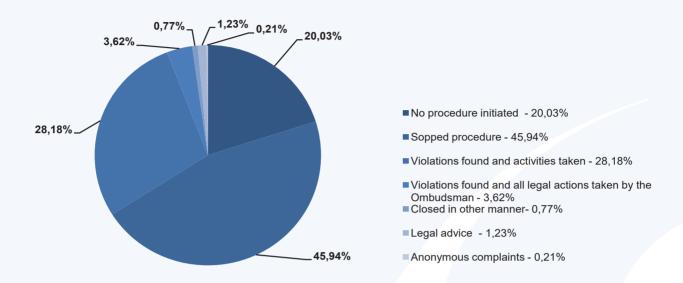
Out of total of 5.336 complaints, the procedure was completed for 4.393 complaints or in 82,33% cases, whereas the procedure is ongoing for 943 complaints or 17,67%. (Image No. 2)

Image No. 2



Out of the completed 4.393 complaints, in 1.238 complaints or 28,18%, the Ombudsman established violations of human rights and freedoms and its interventions were accepted, in 159 or 3,62% cases the Ombudsman undertook all legal actions, in 880 complaints or in 20,03% cases no procedure was initiated, and for 2.018 cases or 45,94% cases the procedure was stopped. In 54 cases or 1,23%, the citizens were given legal advices in terms of realization of their rights, 35 cases or 0,77% were solved in another manner, and 9 or 0,21% of the cases were anonymous. (Image No. 3)

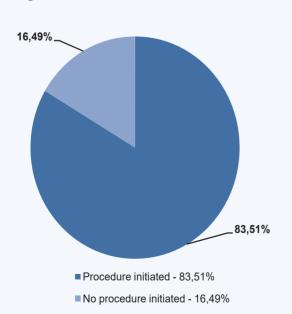
Image No.3



In 2015, out of total of 5.336 complaints, procedure was initiated on 4.456 complaints or 83,51%, and no procedure was initiated for 880 complaints or 16,49%. Having in mind the competences of the Ombudsman, and due to the high number of complaints for which no procedures were initiated, the Ombudsman considers that there is a need for promotion of human freedoms and rights also for the institution Ombudsman, so that the citizens will be informed of their rights, manner of protection of such rights, as well as of the competences of the Ombudsman. (Image No. 4)

One should not disregard the fact that some of the citizens trapped in the labyrinths of the legal system and unable to find a solution for their problem, have requested legal advice and instructions for resolution of their problems and exercising of their rights, an indicator showing that citizens respect and trust the institution Ombudsman.

Image No. 4



Out of total of 4.456 complaints on which the Ombudsman has initiated a procedure, 3.513 or 78,84% were completed, and the procedure is still ongoing for 943 complaints or for 21,16%.

During the reporting period, there was an increase in the number of cases for which the Ombudsman has failed to conduct a procedure for protection of human freedoms and rights due to non-cooperation, that is serious obstruction of its work, in particular by the Ministry of Internal Affairs, the Supreme Court, the Primary Court Skopje I, and the Primary Court Skopje II, the Public Prosecution Office, the Government of the Republic of Macedonia, as well as due to immaterial and informal answers provided by the Ministry of Labor and Social Policy, the Ministry of Education and Science, the Ministry of Health, the Ministry of Finance, and the Agency for Real Estate Cadastre.



The Ombudsman, due to the obstructions in terms of securing compliance and protection of constitutional and legal rights of the citizens is criticizing these authorities, in accordance with the Ombudsman Law.

The Ombudsman has, also during this reporting year, every three months, and monthly during the last quarter, submitted information to the Government of the Republic of Macedonia on the number and type of submitted requests by the Ombudsman to the Government bodies and to the bodies within the ministries. The Ombudsman still remains on the position that more work is required in terms of improving the quality of cooperation, for the purposes of acting in accordance with its interventions and provision of material and legally founded answers.

Violations found and measures undertaken

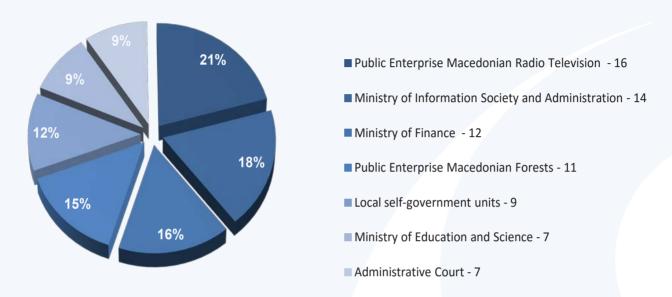
Out of the total number of cases acted upon by the Ombudsman, in 1.514 cases violations of human freedoms and rights of the citizens were established. Of them, in 1.238 cases (81,77%) the state administration bodies, other bodies and organizations with public authorizations have accepted the interventions of the Ombudsman, for 117 cases (7,73%) the procedure is still ongoing, and in 159 cases (10,50%) (following the establishment of violation and submitted recommendation which was not accepted, other actions were undertaken in the form of information and special reports) the Ombudsman has used all legal options.



During this reporting year, most of the established violations were pertaining to the field of finances and financial operations 520 or 34,35%, of which in 481 cases or 92,50%, actions were taken in accordance with the interventions of the Ombudsman. This is followed by the complaints of the citizens on violation of rights in the field of social protection, 152 or 10,04% of which in 146 cases or 96,05% the indications of the Ombudsman were accepted, followed by the complaints in the judicial area, with established violations in 130 cases or 8,59% of which in 120 cases or 92,31% the interventions of the Ombudsman were accepted. Regarding the complaints in the field of employment relations, violations were established in 118 cases or 7,79%, of which in 45 cases or 38,14% the interventions of the Ombudsman were accepted. As regards the complaints in the field of consumer rights, 88 violations were established or 5,81%, of which in 71 cases or 80,68% the bodies and organizations with public authorizations have acted in accordance with the intervention

of the Ombudsman. In terms of the complaints relating to the property and legal affairs, violations were established in 80 cases or 5.28%, of which in 67 cases or 83,75%, the interventions of the Ombudsman were accepted, followed by the complaints in the field of protection of rights of children, pension and disability insurance, etc.

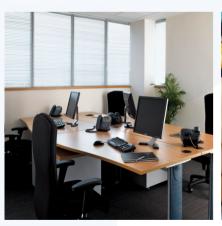
Image No.5



The bodies which have mostly not acted upon the indications, suggestions, recommendations, opinions, and other interventions of the Ombudsman are as follows: Macedonian Radio Television, Ministry of Information Society and Administration, Ministry of Finance, Public Enterprise Macedonian Forests, local self-government units, Ministry of Education and Science, Administrative Court, Ministry of Internal Affairs, etc.



THE INSTITUTION





Organization and method of operations

The Ombudsman is a body of the Republic, which in accordance with the Constitution, protects the constitutional and legal rights of the citizens which were violated by the state administration bodies and by other bodies and organizations with public authorizations. The Ombudsman is paying special attention to the protection of the principles of non-discrimination and appropriate and just representation, and is, at the same time, the National Preventive Mechanism. The election and its term represent a constitutional category.

The organization of the Ombudsman's work is set forth by the Ombudsman Law and by the bylaws adopted by the Ombudsman.

The Ombudsman's head office is in Skopje, and the one has district offices in: Bitola, Kichevo, Kumanovo, Strumica, Tetovo, and Shtip.

Personnel (non)equipping

The central office of the Ombudsman continued to work, also this year, with only one instead of four deputies. At the same time, the reduction trend has continued, that is, the weakening of the personnel capacities of the institution and the inability for filling-in of the vacancies, due to non-obtaining of consent from the Ministry of Finance which contributes to the permanent reduction in the number of employees in the institution Ombudsman.

Qualification, gender, and ethnic structure of employees:

		COMMUNITY AFFILIATION										
	Macedonian	Albanians	Turks	Roma	Serbians	Vlachs	Bosniaks	Other	total employ			
Appointed persons	2	3		1		1			7			
Managerial job positions	16	4			1	1	1		23			
Non-managerial job positions	11	23	1	2	2	1	2		42			
Total:	29	30	1	3	3	3	3		72			

			LEVEL OF EDUCATION								
	Employees by gender		Higher education		Post-secondary education		Secondary education		Primary education		-
	М	F	М	F	М	F	M	F	М	F	Total
Appointed persons	4	3	4	3							7
Managerial job positions	11	12	11	12							23
Non-managerial job positions	13	29	6	19			7	10			42
Total:	29	45	22	35			7	10			72

The institution operates in conditions of vacant job positions which the Ombudsman is having trouble filling-in for years, due to the persistent not giving of authorization for filling-in of the vacant job positions by the Ministry of Finance as of 2011.



The core value of the constitutional order, the appropriate and just representation of the citizens belonging to all communities in the state government authorities and other public institutions on all levels, which is to be protected by the Ombudsman in accordance with the Constitution of the Republic of Macedonia, is disturbed in the very Institution. This is due to the financial dependence of the Institution from the Ministry of Finance.

The issue relating to the personnel (non) equipping of the institution, although the relevant entities have been informed thereof on several occasions, remains unsolved, thus making it more difficult to establish and maintain the parallel between quality and efficiency in operations.

The Ombudsman has been making efforts for years to request for authorization for each vacant job position from the competent Ministry; however, due to unclear reasons, the Ministry provides negative answers to this issue, although funds for filling-in of these job positions are secured in the Budget.

Due to such actions of the Ministry of Finance, the Republic of Macedonia does not have the National Preventive Mechanism (NPM) for a period of six months, and one of the three positions in this unit has not been fulfilled for the third year in a row.

Operation means

The source of funds for the operations of the Ombudsman is the Budget of the Republic of Macedonia. For the Ombudsman and the sub-program National Preventive Mechanism (NPM) for 2015, a total of 72,776,000.00 MKD have been approved. The 2015 main budget re-balance was also reflected on the funds allocated for the Ombudsman. Namely, the re-balance reduced the salary item by 4,236,000 MKD, funds which due to the non-obtaining an authorization by the Ministry of Finance for filling-in of the vacant job positions were taken, that is, instead of the actual expectations for strengthening of the capacities by filling-in of the vacant job positions, the institution is facing drastic weakening of the capacities which poses risks for execution of the function. The non-provision of authorization and the withdrawal of funds resulted into the Republic of Macedonia not having a National Preventive Mechanism. This reduced the total funds available to the Ombudsman and the sub-program for the National Preventive Mechanism (NPM) for 2015 at the amount of 68,540,000.00 MKD.

The funds not being granted for the needs of the institution Ombudsman are continuously insufficient and represent problems for the quality execution of the function. Namely, certain unjustified fixed amounts for particular items can be observed, for which regardless of the justification of the requested funds – authorization and consent is never given.

It is necessary for additional funds to be approved since the Ombudsman institution is facing the lack of internal personnel, that is, professional and material and technical capacities, which are necessary for the institution's operations in the field of prevention of violations, promotion of human freedoms and rights, for the purposes of reducing the number of cases of their violation, as well as bringing the institution closer to the citizens and continuous information on its competences and improvement of the cooperation with the media and non-governmental organizations.

Regarding the budget of the National Preventive Mechanism (NPM) and its financial independence, in accordance with the Optional Protocol to the Convention against torture of the UN, the same, as well as the financial independence of the institution is formally satisfied. During the reporting year, the National Preventive Mechanism continued to work with halved personnel capacities and the team of two advisers became a team without any employees at the end of the reporting year.

Sub- items	Description	NP budget 2015	NPM budget 2015	NP realization 2015	NPM realization 2015	remaining
401	Basic salaries	33.434.000,00		30.868.050,00		2.565.950,0
402	Contributions for social insurance	12.366.000,00		11.417.642,00		948.358,0
40	Salaries and supplements	45.800.000,00		42.285.692,00		3.514.308,0
420	Travel and daily allowances	730.000,0	40.000,0	676.370,0	25.814	67.816,0
421	Public utility services	5.135.000,0	40.000,0	4.231.690,0	29.192	914.118,0
423	Materials and tools	985.000,0	10.000,0	983.900,0	6.676	4.424,0
424	Repair and current maintenance	1.500.000,0		1.395.468,0		104.532,0
425	Contracted services	11.920.000,0	400.000,0	11.832.432,0	299.814	187.754,0
426	Other operational expenses	700.000,0	15.000,0	696.765,0	700	17.535,0
42	Good and services	20.970.000,0	505.000,0	19.816.625,0	362.196	1.296.179,0
464	Various transfers	90.000,0		72.208,0		17.792,0
465	Payments after executed documents	90.000,0		72.208,0		17.792,0
480	Purchase of equipment and machines	895.000,0		818.218,0		76.782,0
485	Investment and non-financial assets	280.000,0		261.478,0		18.522,0
48	Total capital expenditures	1.175.000,0	505.000,0	1.079.696,0	0,0	95.304,0
	TOTAL	68.035.000,0	505.000,0	63.254.221,0	362.196	4.923.583,0
	TOTAL	68.540	.000,0	63.616.	417,0	





Republic of Macedonia Ombudsman

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