



**REPUBLIC OF MACEDONIA
OMBUDSMAN**

ANNUAL REPORT

**ON THE DEGREE OF PROVISION, RESPECT,
ADVANCEMENT AND PROTECTION OF HUMAN
RIGHTS AND FREEDOMS**

2017

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Dear all,

The Annual Report for 2017 presents the situation in the society regarding the degree of observance and realization of the human rights and freedoms, and also of the degree to which the institutions apply the laws and other prescriptions diligently in their operation, securing the rights of the citizens in various social spheres. At the same time, the Report provides guidelines on enhancing of the control over the administration, as well as legal amendments that need to be made in order to improve the functioning of the rule of law for all citizens equally.



The thing that marked the reporting year, are clearly the events in the Parliament when the unprofessionalism of the police was confirmed - a state stressed by the Ombudsman for years back.

The unprofessionalism of the police was confirmed in the cases of arrestment of the three MPs, who were taken to the court handcuffed, without any regard to their immunity. The announced reforms being done in this area should move right in this direction- creation of a professional police service immune to any influence.

A big number of complaints refer to the operation of the enforcer, indicating that there is no improvement in this segment, although it is about situations in which the citizens are literally left with no living resources.

The lack of effectiveness of the administrative judiciary is still reflected on the citizens who spend years waiting for the realization of their rights emerging from the social and health-care protection, denationalization, taxes etc. it is especially concerning that the courts spend more time completing the cases, instead of solving them.

The Public Revenue Office, with its voluntary actions in the special tax procedures for property and property state examination, i.e. determination of incomes without defined or sufficiently defined tax- behavior that is absolutely not allowed for a state that prioritizes the rule of law.

The lack of real reforms in the prison system and poor management are just a part of the conclusions for this segment, where the long lasting dysfunctional and inefficient healthcare system and resocialization system is especially concerning, which instead of providing rehabilitation, makes criminals of the minors.

The listed conclusions should alarm all competent bodies and institutions, so that they would approach the reformation of this system seriously, in order to prevent the loss of human lives being the price of such dysfunctional system.

The social help for many citizens has remained unavailable, due to the inconsistencies in the law, and the persons with disabilities remain on the margins of the society, although they are a vulnerable category of citizens and persons at social risk that should receive special attention by the country. Essential reforms are needed, precisely because this is a very sensitive issue, which would help these citizens live life with dignity and provide them with actual conditions for the realization of the guaranteed rights.

The increased number of citizens seeking protection against discrimination on all bases is especially concerning; however the mobbing and the contents in the schoolbooks referring to the marginalized groups also contribute to the conclusion that we are still very far from equal society. It means that we must work much harder to enhance the legal regulations for protection against discrimination, its recognition by the competent bodies and sanctioning that behavior because no one should feel rejected.

As always, the protection and realization of the rights of the children, as well as the securing of their best interest has again been in the center of the Ombudsman's attention, but

still, there is no progress in this area. Still, there is no efficient solution for the children without documents and are legally invisible, the marriages between children has been left untreated and there are no medication protocols for the children abusing psychotropic substances, nor there is a suitable treatment for such problems.

The problems of the citizens who are members of the second pension pillar have remained the focal point of the Ombudsman's operation, because it was about one of the civil rights providing equitable and good pension.

There is no progress regarding the voting rights, as it was confirmed during the local elections showing the weak capacity of the State Electoral Commission, regarding the update of the Electoral List and also in the provision of actual opportunities for each citizen to exercise the right to vote.

Sadly, during this reporting period the citizens faced problems regarding the payment of the broadcasting fee, the water utilities and the property and legal relations, urbanism and construction.

The National Preventive Mechanism (NPM) has continued to monitor the situation with the refugees and the asylum seekers as well at the freedom deprivation locations. The refugee crisis has decreased its intensity, but still, they visited the Transit Centers and the Center for Foreign Citizens and the one for asylum seekers, in order to prevent the possible breaches of the rights of these persons. The special report of the NPM on the situations in the Idrizovo Penitentiary has illuminated all deviant occurrences in the prisons, starting with the inhuman accommodation conditions, treatment and ending with the high degree of corruption as well as easy access to drugs.

2017 was a jubilee year and a year of major changes for the institution of Ombudsman. Twenty years were marked from the adoption of the first Law on the Ombudsman which during the past years has been amended for several times. The institution constantly gained new terms of office and during the reporting year, the latest amendments took place, which largely enhanced this institution's role and position as an independent control mechanism. It was practically confirmed by the adoption of the measures by the Assembly in order to overcome the concluded situations contained in the Ombudsman's report.

Here from, I hope that this Report will also be a good ground to determine new measures directed at the improvement of the defined negative occurrences in all areas regarding the human rights and freedoms, because precisely the Ombudsman's Annual Report is a key mechanism in the operation of the institution.

OMBUDSMAN
Ixhet Memeti



OMBUDSMAN – NATIONAL IN- STITUTION FOR PROTECTION OF HUMAN RIGHTS



In march 2017, the amendments on the Law on the Ombudsman adopted to enhance and expand the competences, functioning and independence of the Institution, that need to provide full integrity in the performance of the functions from the formative plan, have created conditions to obtain status A for national human rights institution.

The Ombudsman, due to their practical implementation, has undertaken actions to harmonize the general acts for organization of the operation and systematization of the work posts in the Expert Service, the National Preventive Mechanism's Team, the special departments and offices of the Ombudsman in compliance with the Assembly of the Republic of Macedonia.

Considering the existing, as well as the newly acquired duties that significantly expand the Ombudsman's office within the Ombudsman's Expert Service as internal organization units 10 departments have been determined, the National Preventive Mechanism's Team and 3 – three departments, for which proper work posts are being systematized being basis for employment and deployment within the Ombudsman.

Still, such legal amendments did not realize fully the needs for financial independence of the institution, nor they encompass the key recommendations from the Paris principles, the Group of experienced experts for the system issues about the rule of law in the Republic of Macedonia and the Urgent reform priorities for the Republic of Macedonia given by the European commission, in accordance with which the operation should be improved.

Namely, according to the Paris principles, the institution should have an infrastructure that is appropriate to easily perform its activities and to especially have adequate financial resources providing its own staff and premises, becoming independent from the executive authorities and shall not be subject to financial controls influencing its independence.

In addition, the law has not determined a right for the Ombudsman in case of violation of the constitutional and legal right of number of citizens, minors and persons with disabilities or in cases when the institutions disregard its recommendations to ask the Assembly for formation of specialized interim survey commissions consisted of experts in the proper fields as well as NGO representatives.

The ombudsman, also, remains without its own budget or normative assumptions for independence of the Expert Service, the National Preventive Mechanism's Team, the separate departments, offices of the Ombudsman, i.e. their separation from the state administration have been provided. All of this implies that the Republic of Macedonia has yet to create a national institution of Ombudsman, from legal and formal point of view, which would operate with full capacity to promote and protect the human rights and freedoms.

In 2017, the staff capacities of the Expert Service were not enhanced at all, i.e. no employments have been made.

Furthermore, aside to the insisting and pointing to the importance of the fulfillment of the obligation that the Republic of Macedonia has undertaken with the establishment of the Ombudsman- National Preventive Mechanism, here the vacancies have not been filled, so the Team survives as a result of donations made by international organizations for several years now.

In the upcoming period there is a further expansion of the competence of the institution by establishment of the Ombudsman as a civil control mechanism, so the lack of action in that direction, i.e. failing to provide consents for new employments would additionally worsen the unfavorable staff condition.



It also should be stressed that in accordance with the amendments of the Law on the Ombudsman, the institution of Ombudsman will for the first time, together with the Government agreed on its budget for 2018 and subsequently it shall be executed with no problems or impairments.

This, as the enabling of the Ombudsman is a precondition for efficient promotion of the human rights to independently develop its capacities through promotion of the standards for its smooth operation and creation of proper presumptions from normative, financial and personnel aspect.

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



DURING THE REPORTING YEAR

THOUSANDS OF CASES KEPT IN THE COURT DRAWERS



Cases for issuance of payment orders submitted within the period from 2006 to 2011 have been kept in the civil courts' drawers instead of being processed as per the Law on Litigation Procedure.

The most obvious example for such rude violation of the principle for trial within a reasonable period, the Ombudsman has detected in the Court of First Instance in Strumica, where such cases were not at all in a procedure from 5 to 10 years.

The results of such voluntarism and inactivity, if the claims/ payment orders, are recognized in the meantime, will directly damage the citizens without them being responsible for such occurrence because aside to the main debt, they will have to pay enormous amounts of interest and costs.

What is concerning is the fact that none of the competent institutions, above all the Court Council of the Republic of Macedonia, did not take notice of this occurrence, although it has been progressing for a long time period and encompassed a large number of cases.

A SYSTEM ERROR-AN OBSTACLE TO EXERCISE THE RIGHT TO PENSION



How much time does the Public Revenue Office need to fix the error in the system, for the citizens who in the enforcement procedure charged the monetary resources for contribution on the grounds of pension and disability insurance from the firms and state institutions so that they can realize them and to actually realize the right to pension?

The Public Revenue Office justifies itself that the problem stems from the provisions from the Law on Contributions from the Mandatory Social Insurance and the Gross Salary System introduced in 2009, in accordance with which the contributions cannot be paid individually.

However, in spite of the determined omission, the Public Revenue Office fails to undertake any effective actions to overcome this problem and to find a proper solution, in spite of the numerous requests by the concerned citizens and the Enforcers' Chamber of the Republic of Macedonia. Such condition damages the category of insured citizens because for they cannot exercise the right to pension or realize such right in a slighter quantity before the Fund.

THANKS TO THE OMBUDSMAN'S INITIATIVE THE NEED FOR LEGAL REGULATION AND PREVENTION OF MARRIAGES BETWEEN CHILDREN HAS BEEN ACKNOWLEDGED



Monitoring the situation with the provision, realization and protection of the rights of the children and the persons with disabilities, the ombudsman, in the direction of preventive actions and prevention of the further expansion of the marriages between children, has submitted an initiative to the Republic of Macedonia's Government for the amendment of the Law on Family, the Criminal Code and the Law of Secondary Education, in a manner to regulate, the extramarital union for a minor over the age of 16 and under the age of 18, i.e. to move the age limit and sanction the occurrence of living in an extramarital union with a child over the age of 16 and under 18 with or without the consent of the parents or the guardian. In that direction, it has been pointed out to impose an obligation on the parents to report when their children leave the education process due to formation of a marital, i.e. extramarital union of their child.

The initiative has been accepted by the Government of the Republic of Macedonia, which, according to the Ombudsman, would contribute to the prevention of the occurrence of marriages between children and the consequences thereto for the health of the child.

THERE IS NO FIXED INCLUSION OF CHILDREN WITH DIFFICULTIES IN THE SECONDARY EDUCATION



„Inclusion in the secondary education for the children and youngsters with disabilities has been reduced to improvised implementation as a consequence of the superficial understanding and interpretation of inclusion“- the stated is just one of the conclusions from the research of the Ombudsman for the inclusion of the children and young people with disabilities in the regular secondary education in the Republic of Macedonia, which is an activity that represents an extension of the analysis of the condition with the education of children with disabilities in the elementary education.

The research has confirmed the disharmony of the Law on Secondary Education with the Convention for Children's Rights, the lack of diligent application of the current laws on education, the insufficient preparation of the conditions in the schools and the staff for work with children with disabilities, the incompleteness of the expert teams, the low level of consciences of the needs of the students with disabilities which leaves room to increase the influence over the creation of equal education opportunities for all children.

The Ombudsman has recommended to the relevant authorities to establish mechanisms for systematic identification, recording and monitoring of the students with disabilities in the regular secondary education when creating and implementing the education and social policies and to adapt the support in the education to the determined capabilities and needs of the children and youngsters with disabilities. Also, the Ombudsman recommended total physical external and internal accessibility of the school facilities, in line with the international standards, as well as proper equipment of the schools for inclusive education.

ENDED IN COURT DUE TO MISSPELLED SURNAME



The Court of first instance Skopje II, Skopje, by failing to observe the Law on Litigation Procedure, i.e. without checking the identity of the accused, including the provision of their personal data (correct name, surname and unique ID number) accepted the claim of Skopje Sever AD-Skopje and imposed a fine of 11.475,50 MKD along with interest and litigation costs. The absurd became even greater by the fact that the person never used services for delivered heating energy, nor has lived in the apartment in question.

The Ombudsman, acting upon the complaint submitted by this person, has determined that it is a very obvious mistake regarding the determination of the identity of the accused, due to which he requested from the plaintiff Skopje Sever AD-Skopje to revoke the claim.

AD acted upon the direction of the Ombudsman and submitted a written document to the Court of First Instance Skopje II- Skopje to revoke the claim.

SYRIAN MOTHER AND DAUGHTER GRANTED ASYLUM THANKS TO THE OMBUDSMAN



The Macedonian association of young lawyers - Skopje has submitted a complaint to the Ombudsman for delay of the procedure for recognition of the right to asylum of a mother- refugee and her newborn daughter represented by the Association in this procedure.

The complainant of the complaint stated that the body competent for asylum disrespects the legal deadline of six months for adoption of a decision upon the request to recognize asylum, nor considers the facts that it is about a violation of the rights of a vulnerable category of women, with a child who should acquire international protection in the Republic of Macedonia.

Starting from the fact that Article 27 from the Law on Asylum and Temporary protection envisages a preclusion deadline of six months from the day of submission of the request in the body competent for asylum shall be obliged to adopt a decision, the Ombudsman and from the department for Civil Affairs within the Ministry of Interior covering the competences regarding asylum, has requested submission of all acts from the official documentation on the case, as well as diligent adoption of a decision.

The competent body, instead of acting upon the request, interrupted the operation of the Ombudsman by failing to respond in the legally set deadline and did not submit the requested information.

Due to that, the Ombudsman to the Minister of Interior has submitted a Special Report for interruption of their operation by pointing that the body competent for asylum in the particular case has obviously violated the rights of the asylum seeker and her newborn daughter.

After such remarks of the Ombudsman, the Ministry of Interior notified the Ombudsman that the mother from Syria and her daughter have been granted the right to asylum in the Republic of Macedonia with the status of subsidiary protection within a year.

RIGHT TO A FREE PROTEST, BUT WITH HANDCUFFS



The Constitution of the Republic of Macedonia guarantees the right of the citizens for peaceful gathering at a public protest without prior report and special permission. The use of such right, in line with Article 21 from the constitution, may be limited only in conditions of war or other emergency.

If the limitation of the right is done by an official person by misuse of the official duty or position, such actions, in line with Article 1470, paragraph 3 from the Criminal Code shall be considered a crime – Illegal deprivation of freedom and shall be subject to imprisonment of six months to five years.

The Ombudsman has received separate complaints by four citizens (members of the political party Levica) who participated with anti-NATO parades at the public gathering held in Skopje on 30.07.2017 where several police officers violated their rights by short term deprivation of freedom and use of means of coercion that is, handcuffing. After establishing the identity of these persons, they have been freed.

After the Internal Control Department within the Ministry of Interior has stated that the findings in the complaints against the police officers are well grounded, disciplinary measures were initiated in the Ministry, the Ombudsman to the basic Public Prosecution has submitted a request for initiation of a procedure due to determination of penal liability of all police officers participating in the illegal deprivation of freedom.

The prosecution notified the Ombudsman that they have formed a case upon the request of the Ombudsman and that the damaged citizens have already been interviewed.

THE OMBUDSMAN SUPPORTED THE CITIZEN WHO SUBMITTED A COMPLAINT ON THE DRIED UP PALM TREES



A retired person from Skopje, being distrustful toward the Public Prosecution informed the Ombudsman that they have submitted an initiative for investigation on the case with planting palm trees in several cities in the country, which meanwhile dried up.

In that direction, considering that it is a matter of public interest and because according to the announced information in the public the assumed damages amount over than half million euro, the Ombudsman has initiated several actions.

Subsequently, the Ombudsman was notified by the Basic Public Prosecution that the documentation has been provided from the Ministry of Interior and that it is a matter of grounded suspicion for committed criminal acts, abuse of the official duty and authorizations considering that the Budget of the Republic of Macedonia has been directly damaged.

Precisely because of that, the case has been submitted to the Basic Public Prosecution for prosecution of organized crime and corruption with the aim of adopting a meritory public-prosecution decision.

IS THERE AN END OF THE EVERLASTING LEGAL INVISIBILITY OF THE CHILDREN AND PERSONS WITH NO RECORDED BIRTH?!



The Ombudsman, considering the problems and difficulties of the persons who have not been registered in the book of birth, i.e. the persons who do not have a legally recognized identity, name and surname, address and unique ID number has submitted an initiative to the Government of the Republic of Macedonia to determine a special chapter for a procedure to determine the time and place of birth in the Law on extra-judicial procedure, which has been accepted.

Namely, the amendment of the Law on extra-judicial procedure shall impose the need of proper legal regulation of the Law on Birth Records, within the part of the registration of a person as being born, in a manner envisaging the initiation of the procedure, gathering of notifications for the persons, the court term and display of evidence, adoption of the decision and its submission to the birth records administration agency and the grounds- entering on the basis on a court decision and exception from court fees of these persons.

The Government of the Republic of Macedonia has accepted the initiative and we can expect to overcome the long lasting problem faced by such persons/ children and especially the members of the Roma community.

UPON THE RECOMMENDATION OF THE OMBUDSMAN THE SCHOOLBOOK FOR THE SUBJECT "CIVIC EDUCATION" FOR THE EIGHTH GRADE HAS BEEN REVOKED



Acting upon a complaint by the civil association for violation of the rights by the authors of the schoolbook for the subject "Civil Education" for the eighth grade, due to existence of texts having discriminating contents based on disabilities, sex, health and religious basis, the Ombudsman after the analysis requested interpretation and clarification of the disputable parts of the schoolbook from all competent services within the Ministry of Education and Science. First of all, instead of focusing on the content in the schoolbook and analyze the disputable parts and notes, the services interpreted the legal procedure and the manner to revoke the schoolbook and quoted the legal foundations for this procedure which triggered further action.

The Ombudsman has submitted a Recommendation to the relevant Minister to reexamine the content of the disputable schoolbook and if found that the schoolbook oversteps the planned programs it should be taken out of use or parts of it would not be studied.

Based on the submitted Recommendation, the Minister of education and science formed a proper Commission that analyzed the schoolbook "Civic Education" for eighth grade after which there has been a proposition and a Decision has been adopted to revoke the schoolbook from the education process.

DEPORTED FOREIGN CITIZEN- PREGNANT, IN SPITE OF BEING MARRIED WITH A MACEDONIAN CITIZEN



A female citizen of the Republic of Kosovo married to a Macedonian citizen complained that the MOI regional office in Gostivar cancelled her stay with prohibition to enter the Republic of Macedonia in duration of five years with her deportation. The deportation has been performed the same day of adoption of the decision for exile, meaning that the person cannot enter the country until 2022. In the examination procedure of the findings in the complaint, the Ombudsman from the Basic Public Prosecution from prosecution of organized crime and corruption has requested information regarding the stressed findings in the complaint. The prosecution, in turn, notified the Ombudsman that the criminal report against the Kosovo citizen has been rejected, meaning that there are no legal grounds to deprive her of the right to stay in the Republic of Macedonia.

The Ombudsman concluded that although there are no reasons to adopt an Exile Decision, the Ministry of Interior, i.e. the Public Safety Bureau adopted such act and did not accept the guidelines from the Ombudsman to annul such act. From these reasons, the Ombudsman to the Minister of Interior submitted a Report for interference with the operation.

The actions of the Ombudsman resulted with protection of the right of the foreign citizen for smooth and uninterrupted stay in the Republic of Macedonia on the grounds of marriage and family union, considering that during the exile she was pregnant.

UNLAWFULLY DETAINED FIVE SYRIAN NATIONALS



The Ombudsman, National Preventive Mechanism (NPM), upon an unannounced visit of the shelter Center for foreign citizens found five Syrian citizens whose presence was not officially documented in the Center, nor there has been a legal procedure for their detention.

During the visit, the officials provided false information on the actual number of the detained persons in the Center and attempted to stop the NPM to examine all premises. After the discovery of the persons and the conversation with them it was determined that the Syrian citizens have been moved several times from one premise to another in order to keep them unnoticed. After the NPM team intervention, the persons were given food and water and were immediately free to go.

The Ombudsman (NPM) informed the public on this event in order to prevent such or similar actions and secret detention and to alarm the competent institutions in the country to reexamine the total operation and management of the Center, which is subject to continuous critique in the Ombudsman's reports.

DOES THE LAW ON SOCIAL PROTECTION REALLY PROTECT THE CITIZENS UNDER SOCIAL RISK OR REQUESTS FULFILMENT OF CONDITIONS HARMFUL FOR THEM?



The stated, as a dilemma, emerged from the actions upon the complaints of the citizens regarding the realization of the right to social monetary help and from the analysis of the Law on Social Protection that should provide social protection and security of the citizens at risk.

Namely, the Ombudsman has determined the following:

- The user families of social help after the third year of using this right are paid less,
- A family cannot realize the right to social help if one of the users (members) does not have the needed documentation or has not been registered in the birth register regardless of the fact the rest of the members meet the legal conditions for recognition of such right,
- The minimal amount of the social help, according to this law is increased with a certain coefficient to maximum of five members in the family, which would mean that the sixth or other members are not entitled to such help,
- The Law on Social Protection imposes the obligation of the holder of the right of social help to each month come in the competent center to confirm the status and condition of the family/ household. Considering that the condition to realize such right is to be an active employment seeker with the Law on Employment and Insurance, the person needs to report in the Employment Agency each 30 days. These obligations are an additional expense to the user family.

THE CITIZENS LOSE HOPE THEY WOULD EVER BE ABLE TO EXERCISE THE RIGHT TO REMUNERATION FOR THE DENATIONALIZED LAND



The families who have submitted requests for denationalization are still in the loop because the institutions keep circling the process.

One of the main reasons for such condition is because the administrative bodies (the Ministry of Finance denationalization committees and the State Committee for Decision Making in Labor Relation Administrative Procedure and Second Instance Labor Relation Procedure) and the administrative courts (the Administrative and Supreme) nullify each other's decisions.

Namely, aside to the fact that they work inefficiently and with low quality for decades, they neglect the fact that the main purpose of their operation is to provide the rights and legal interests of the citizens. Among other things, there is an extremely poor delivery system for acts and adopted decisions by cases and the administrative courts do not use the legal competences to hold inquiries and decide on the merits.

A PRIVATE AND STATE OWNED COMPANY ENCROACHES ON A PRIVATE CONSTRUCTION SITE



Acting upon a complaint by a citizen asking for protection of the right to ownership violated by EVN Macedonia, because contrary to the detailed urban planning, it wanted to set a metal power line for electricity distribution on a private construction site where a business facility is being planned to build, the Ombudsman has initiated several actions within his legal competences. Namely, he recommended a temporary halt of the construction activities until the adoption of a court decision and several times directly mediated between the two on site parties, in order to find an acceptable and legal decision.

In addition to this, the Ombudsman in this case initially applied the new legal authority and participated in the court procedure in the capacity of friend of the court, where he expressed his view point regarding the entire procedure. As a result of all mentioned numerous activities, the construction activities have stopped.

THE TRANSMISSION OF A RELIGIOUS MASS WITH HIGH VOLUME DISTURBS THE PEACE OF THE BITOLA CITIZENS



The citizens of Bitola face this problem for two years, a problem which is not based on religious grounds, but rather the fact that a religious facility transmits the morning mass through speakers. Namely, the Ombudsman has received complaints several times, mostly by citizens living near the church pointing out that this is a rude violation of their right to peaceful and restful life. According to the citizens, the transmission of the religious mass from the church facility early in the morning, through speakers with very high volume, violates the right to rest and sleep, especially for the children as well as all working people who have the right to rest between two work days and weekend. They also state that near the church there are the Ss. Cyril and Methodius elementary school and "Taki Daskalo" high school.

Acting upon the complaints the Ombudsman requested from the authorized inspector for environment within the municipality of Bitola to inspect and measure the value of noise emission level caused by the Church speakers. The inspectorate acted upon the requirements, measured the noise and concluded that the noise is within the allowed limits. Considering that in spite of the inspection the residents still continued to submit complaints because the masses were still audible in the wider central area of the city, the Ombudsman requested the competent authorities to measure once again the noise emission levels but this time in the days when the actual condition can be clearly established, on Saturday, Sunday and on the religious holidays when the service is most loudly transmitted. A response has not been submitted to the Ombudsman until the end of 2017 by the municipality of Bitola on the results of the inspection on these days and the concluded level of noise.

THE OMBUDSMAN PREVENTED AN ATTEMPT TO RETURN A FOREIGN CITIZEN IN AN UNSAFE COUNTRY BY THE BORDER POLICE



The Ombudsman- National Preventive Mechanism (NPM) has conducted a visit to the police station for the border crossing point the airport Alexander the Great- Skopje, due to received information that a Turkish citizen is about to arrive who may be returned to the land of origin, beside his intention to seek asylum in the Republic of Macedonia.

The aim of the NPM team visit was to stop the possible return of the person in a country where their life and freedom would be under risk and to enable them to have an unobstructed access to the asylum seeking procedure.

The NPM has concluded that, after the detention in duration of several days on foreign airports in inhuman conditions and no opportunity to access their basic rights, the person was returned in the Republic of Macedonia, where upon an intervention of the Ombudsman this person was granted the right to asylum seeking procedure.

The request to recognize the right to asylum for the Turkish citizen was properly processed and he was accommodated in the Shelter Center for asylum seekers. Still, in conditions when each day from Macedonia tens of migrants are being deported out of all official procedures, this may not have been the case if the full process was not monitored by the Ombudsman.

DUE TO THE BLOCKED BANK ACCOUNT OF THE “GRIGOR PRILEV” ELEMENTARY SCHOOL IN OHRID, THE RETIRED TEACHERS WERE UNABLE TO RECEIVE THEIR PENSION



Formerly employed teachers in the “Grigor Prilev” elementary in Ohrid who have acquired the right to pension in 2013, 2015 and 2016 have not been paid retirement payment in spite of enforced court decisions confirming that right, because the bank account of the school has been blocked for 4 years due to debt.

Upon acting on these complaints, the Ombudsman to the elementary school, as well as to the municipality of Ohrid, which is the founder of the school has submitted directions on their legal obligation to act upon the court decisions and to pay the retirement payment. Upon all addressing the school and the municipality replied with the same response- that the payment shall be made after the de- blocking of the school’s account. The Ombudsman considers that in order to overcome this problem, it is necessary to include the Ministry of Education and Science, in order to find a way to pay the pension payment as, regardless of the blocked account, the other financial means for salaries and contribution of the employees are being regularly paid.

THE OMBUDSMAN HAS REQUESTED FACILITATION OF THE ACCESS TO HEALTHCARE PROTECTION OF THE SOCIAL AID BENEFICIARIES



Monitoring the condition of the citizens exposed to social risk and difficulties to approach the healthcare services, the Ombudsman starting from the principle that the social protection is a system of measures, activities and policies to prevent and overcome the main social risks the citizen is exposed to, has submitted an initiative to amend the Law on Healthcare Insurance

This activity aimed to create a legal foundation to facilitate the access to healthcare protection for the users of social monetary help and exempt them from participation in the hospital care.

The Ministry of Health accepted the Initiative thereby creating space to expect modification in the legal framework due to exemption from payment of participation in the medication overcoming the current condition of inequality with elements of discrimination of a certain category of citizens at risk due to their social status.

ORPHAN USERS OF FAMILY PENSION - VICTIMS OF THE LAW ENFORCEMENT AGENTS



An enforcement agent from Skopje has left two minors without basic life necessities for a year because the family pension was paid on the bank account of their aunt, who is their guardian, and has been blocked due to unpaid debt for a loan. The enforcement agent, without observing the law, according to which these funds have been intended for both children, and they should be exempted from enforcement, charges them each month.

For this exceptionally sensitive nature, and for many others, the explanation given by the enforcer is that they do not know the basis on which the funds mature on the bank account, although the clients and the Ombudsman informed them and submitted evidence that it is a matter of family pension money, which are the only income for the support of two minors.

TRAFFIC SIGNALIZATION SET AFTER THE OMBUDSMAN'S INTERVENTION



The local residents of Patlica village faced a problem in their living area due to disrespect of the decision of the Mayor of the municipality of Zhelino forbidding the movement of loading vehicles on the local road. Namely, the citizens requested an alternative movement trace for the loading vehicles and even though adopted by the local authorities, the decision compliant to their request was not observed.

Concluding that the requests are justified, the Ombudsman requested from the Mayor to immediately with no delay start with the application of the adopted decision. The intervention of the Ombudsman has been accepted and the municipality of Zhelino acted in compliance with the Decision to ban the movement of loading vehicles on the local road setting proper traffic signalization.

THE MINISTRY OF EDUCATION AND SCIENCE HAS RECOGNIZED THE SINGLE MONETARY COMPENSATION FOR THE POSTGRADUATE STUDENTS AND THE DOCTORIAL CANDIDATES, BUT STILL HASN'T MADE THE PAYMENT!



This has been concluded by the Ombudsman after complaints submitted by citizens who since 2015 are in a litigation before this Ministry due to payment of the funds for preparation of master and doctoral thesis, in accordance with the Law on Scientific and Research Activity. To make the irony even greater, the Ministry of Education and Science has recognized this right with proper decisions, but the funds are still pending and meanwhile the candidates have already become masters and doctors of sciences.

The Ombudsman has concluded that such actions only confirm the right of these citizens on paper without any possibility for them to practically realize it due to which he informed the Minister for Education and Science by means of special report.

THE MUNICIPALITY COUNCIL OF MAVROVO AND ROSTUSE ACTS IN A DISCRIMINATORY MANNER



The Council of Municipality of Mavrovo and Rostushe, outside all legal prescriptions adopted a decision determining the obligation imposed on all citizens of JKDP "Mavrovi Anovi" from Mavrovi Anovi to pay a contribution of 600, 00 MKD linear for each rest house for cleaning of snow on the local roads and streets during the winter season.

This decision, contrary to the Constitution, caused inequality among the citizens, i.e. they are being discriminated against because its provisions refer only to the owners of rest houses in the village of Mavrovo, and not to the persons living in the villages of Mavrovi Anovi, Mavrovo and Rostuse and also own houses.

Since the request to withdraw such decision was refused, the Ombudsman submitted a proposition to the Constitutional Court for evaluation of the legality, by which, upon a civil initiative submitted earlier, a decision for its abolishment was adopted.

12 CASES OF DEATH OF DETAINEES AND INMATES IN THE PRISONS



Despite of the alarm the Ombudsman expressed in the Annual Report of 2016 on several cases of death of convicted persons who were enduring the punishment of incarceration in the "Idrizovo" penitentiary. Still, considering the total condition from point of regular and proper healthcare protection and treatment, in order to determine the reasons for death the Court Medicine and Criminology Institute was asked to provide an expert opinion.

In 2017 the number of cases of death has significantly increased due to the improper healthcare treatment of these facilities, the lack of equipment of the prison medical offices and the lack of healthcare and medical staff.

The fact the convicted persons serving the punishment of imprisonment in the penitentiaries have no healthcare insurance is very disturbing, although the Law on Execution of Sanctions and the Law on healthcare Insurance say differently.

A CITIZEN FROM TETOVO SAVED FROM LIVING IN MISERY



After the broadcasted story called "Living in Misery" the Ombudsman initiated a procedure upon own initiative and managed to contact the citizen who publicly asked for help from the institutions in the country.

After examining the case, the Ombudsman requested from EVN Macedonia AD acceleration of the procedure for inclusion in the distribution network and from JPK Tetovo requested to install aqueduct line to the house of the person at social risk. At the same time, requested the Center for Social Work to continue the right to continuous financial help pointing that it is about an elder person over 65.

After the intervention of EVN Makedonija - AD Skopje, the connection with the distribution network has been set and JPK Tetovo has made the aqueduct line free of charge, and the Social Work Center Tetovo has recognized the right to the citizen to one time financial assistance and adopted a decision for the realization of the right to permanent financial aid on the basis of an elderly person over the age of 65.

AFTER THE ACCEPTED INITIATIVE FOR AMENDMENT OF THE LAW ON MEDICINES AND MEDICAL MEANS THE PARALLEL IMPORT REMAINS UNDER ENHANCED SURVEILLANCE



The Ombudsman, acting within its competence for the protection of the constitutional and legal rights of the citizens, after analyzing the Law on Medicines and Medical Means has concluded that there are omissions in the procedure for procurement of medicines from parallel import.

In order to enhance the procedure for safety and estimate on the quality of the medicine put into circulation in the Republic of Macedonia, based on parallel import, the Ombudsman has submitted an initiative to amend the Law Amending the Law on medicines and Medical Means and requested to mandatorily perform expert estimation of the medicine upon parallel import, to control each imported batch of medicines prior to its release into circulation and to discard the possibility for interim approval to put the medicine into circulation and to harmonize the provisions of the total law with the EU regulation regarding the production and release of the medicines and medical means.

PROTECTION OF THE HUMAN RIGHTS IN SEPARATE AREAS

POLICE AUTHORIZATIONS

One of the events that marked the dynamic 2017 from the aspect of the execution of the police authorizations, and in context of protection of the freedoms and rights of the citizens, are undoubtedly the events in the Assembly of the Republic of Macedonia on 27.04.2017 i.e. the illegal entrance of a larger group of citizens protesting during the time when the Assembly was in the middle of the election for a President after the parliamentary elections in 2016.

The video recordings that were publicly displayed by the domestic and international media have shown that among these people there were identified members of the police, army, state administration employees, foreign citizens, former convicts for capital crimes as well as masked people. During the violent entrance in the Assembly several MPs were hurt, among who two leaders of political parties, journalists as well as other present persons in the building. The general estimate is that the police did their job poorly in handling the crowd and failed to take any action for the safety of the Assembly.

Considering the seriousness of the event and the gravity posed by its escalation, the Ombudsman on 28.04.2017 has sharply condemned these activities and the violent entrance in the assembly of the Republic of Macedonia as well as the violence against the MPs and reporting teams. At the same time he criticized the unprofessional and selective actions of the Ministry of Interior which instead of preventing incited violence.

The application of the double standards in the operation of this body has confirmed the conclusions of the Ombudsman on the deep party bias of that Ministry which is to be condemned for any of its aspects. The Ombudsman criticizes the internality of the police officers who failed to react in spite of being present and allowed violence and the journalists were impaired to do their jobs violating the freedom of media. The Ombudsman the Ministry of Interior to urgently rise above the political interests and in an efficient and professional manner perform its function for the best interest of the citizens.

Due to involvement in the events regarding the Assembly several MPs were put into custody as well as high functionaries of the Ministry of Interior as well as other popular public figures. In that context, by the end of the year, the group of VMRO-DPMNE MPs has submitted a complaint signed by 33 MPs stating that the court, public prosecution and police exceeded their authorizations when forcibly detaining the MPs of the mentioned political party and coalition.

The Ombudsman has initiated procedure to examine the case, has addressed in writing to the Ministry of Interior and visited the MPs and other detained persons in the prison "Skopje"-Skopje examining the documentation, conversing with the detained persons and the officials in the Prison.

The Ministry of Interior has notified the Ombudsman in writing that the total procedure for examination, detention and referral of the MPs has been done in line with the provisions of the Law on Criminal Procedure based on previous orders given by a judge from the prior procedure within the Court of First Instance Skopje 1, Skopje.

After reviewing the response from the Ministry of Interior as well as the other documentation submitted to it, also from the conclusions made from the conversation with the detained

persons, he determined that the detention of the MPs and their deprivation of freedom on 28.11.2017 violates the right to immunity and the innocence presumption principle.

Considering the stated violations, the Ombudsman recommended to the Minister of Interior implementation of full procedure for examination of the police officers while undertaking the police authorizations on 28.11.2017 and sanctioning the violators of the right of the MPs. The Ministry of Interior notified the Ombudsman in writing that the examinations made by the Department for Internal Control, Criminal Investigations and Professional Standards

have resulted in the conclusion that the entire examination procedure, arrest and detainment has been made in line with the provisions of the Law on Police.

Analyzing the Law on Criminal Procedure determining the rules enabling rightful administration of the criminal procedure and a legally implemented procedure, the Ombudsman has concluded that it does not envisage clear and precise provisions for the implementation of the court order for detention of persons when needed to previously revoke their immunity. Namely, the Law does not contain any provision preventing the detention of persons who have immunity, i.e. the detention procedure termination can only be regulated by by-laws of the Ministry of Interior.

According to the Ombudsman, the immunity as significant legal institute guaranteed by the Constitution should be regulated by law in a clear and precise manner, i.e. to have a consistency of the legal framework. Still, the Ombudsman considers that persons cannot be detained if they have immunity until its revoking and if the detention procedure has already started it should be stopped.

Regarding this case, the office of the Ombudsman received eight more complaints by persons detained due to the events in the Assembly on April 27th, among which a complaint by a high functionaries, i.e. an ex minister for internal affairs. All complaints contained predominantly statements that the police force members from Skopje, Kumanovo and Bitola who participated in the examination of the homes and arrests have breached their legal and constitutional rights by acting contrary to the Law on Criminal Procedure and the legal regulation of the police operation and treated them unprofessionally. Upon the detainment they have been handcuffed and exposed to an unpleasant situation in front of the members of their families and other people thus violating their human dignity.

Immediately after the receipt of these complaints, the Ombudsman visited the detained persons and addressed to the Ministry of Interior requesting submission of all documents from the official records for each person arrested on 28th of November. The Ministry of Interior, i.e. the Minister has responded to all requests of the Ombudsman and submitted all acts related with the actions of the police undertaken during the examination in the homes of the persons and their detention. After examining the full documentation, the Ombudsman did not conclude that the police officers acted contrary to the legal regulation and other prescriptions regulating the operation of the police. Namely for each arrest and examination of a home there is a previous order for arrest of the suspected issued by the judge of the previous procedure, order and minutes of examination of home, minutes for legal remedy, confirmation for taken items, report for use of means of coercion as well as other acts from which violation of the rights of the detained persons could not be concluded. From the submitted acts, the Ombudsman concluded that in the case of the arrested former Minister of Interior an illegal photographing has been done by a police officer who at the time was securing the Skopje penitentiary. The Ministry of Interior determined that the police officer photographed with his phone without knowledge or consent, as severely violated the work order and discipline for which a proposal to initiate a procedure to determine the disciplinary responsibility has been placed. Also, the Ministry informed the Basic Public Prosecution Skopje due to existence of a legible suspicion for committed crime from Article 152 from the Criminal Code of the RM., unauthorized recording.

A disciplinary procedure has been initiated for another police officer who forwarded the photograph of the detained person on the social networks.

Aside to the existing legal framework, (the Law on the Ombudsman and the Law on Interior), due to enhancing the role of the Ombudsman as an external control mechanism over the operation of the police, there are other legislation modification underway (Law on Communications Monitoring and Law on Police), which by enhancing the institution's capacities and civil sector experts inclusion, will ensure the competence of the Ombudsman to act as a mechanism for civil control over the persons with police authorizations and prison police members.

The amendments made in the Law on the Ombudsman in 2016 provided the Ombudsman with the competence to initiate a disciplinary or a criminal procedure against an official or responsible person and to submit a request to the competent public prosecutor to initiate a procedure to determine criminal liability against an official i.e. responsible person and to actively take part in the procedure with the right to give proposals and opinions. Upon his actions, the Ombudsman may additionally refer to the principle of equitability.

Starting from the stated competence, in this reporting period, the Ombudsman to the relevant Public Prosecution Office has submitted five request for initiation of a procedure to determine the penal (criminal) liability against known uniformed police officers who during the performance of their duty have committed crimes against the rights of the human-citizens. Namely, four criminal reports have been submitted for the crime of Bulling in line of duty (Article 143 from the CC of the RM) and one for the crime Illegal Freedom Deprivation (Article 140 From CC of the RM).

It is noticeable for two reports for bulling in the line of duty that they have been initiated after submitted complaints by a civil association from Skopje that cares about the sexual and health rights of the marginalized communities. In these complaints the marginalized persons state that the Ombudsman should especially consider that they are members of a marginalized community and are often exposed to derogatory behavior and actions based on their gender identity.

Because no person should be subject to torture, inhuman or derogatory behavior or punishment, Article 143 from the Criminal Code of the RM incriminates such behavior of the police members in the line of duty, the Ombudsman through submission of the criminal reports considered that this serious manner of acting may most properly protect the rights of the marginalized persons with different sexual orientation in the Republic.

Regarding the criminal report referring to the illegal freedom deprivation related to the known event of short term freedom deprivation of three members of the political party "Levica" on 30. 07. 2017 in Skopje, after the undertaken, measures the Ombudsman determined that the internal control department of the Ministry of Interior responded by initiating disciplinary proceedings against the police officers who performed illegal freedom deprivation of the three demonstrates and the Basic Public Prosecution – Skopje opened a case and made the interrogation of the damaged persons from the stated event for which the Ombudsman was timely informed.

The stated examples of the Ombudsman's casework refer to several conclusions regarding the submitted criminal reports against police officers. Namely the Public Prosecution after the submitted criminal reports against the police officers. Namely, the Public Prosecution still turns toward the notifications obtained from the internal control body within the Ministry opposed to those from the Ombudsman. Furthermore, it does not include the victim of the police brutality in a proper and professional manner in the procedure for determination of the liability of a police officer. In that context the Ombudsman points out that the Public Prosecution should act with special attention and diligence with the criminal reports containing founded indications for violation of Articles 2 and 3 from the European Convention for Human Rights.

Still remains the remark that the internal control body within the Ministry of Interior acts subjectively toward the members of the police as persons employed in the state bodies and there is no visible serious intent to reveal and sanction those police officers who breached the rules of duty and human rights and freedoms.

Although in a smaller number, the Ombudsman has received several complaints from citizens stating that they have had their right to invulnerability of their homes violated by uniformed and non-uniformed police officers, as well as their family life with constant examinations whether there are persons subject to police investigations living on their address.

On the other hand, the Ombudsman has additionally monitored the condition of the detained foreign citizens in the Shelter Center for foreign citizens of the Ministry of Interior in Skopje, which poses a problem by limiting the freedoms and rights of the refugees and migrants transiting through the RM.

The Ombudsman has paid several regular and extraordinary visits of the Shelter Center for foreign citizens located in the municipality of Gazi Baba- Skopje. The frequency of such visits is due to the lack of grounds on which the detention of the migrants and refugees is based on, for which the Ombudsman has regularly informed the public through his statements. The Ombudsman has concluded that the sole reason for their detention and freedom deprivation is the need

of their possible testimony in court procedures against citizens of the RM limiting their freedom to move with no specific legitimate purpose defined in the Constitution of the RM and the internationally ratified conventions. Due to restriction of the right of the detained foreign citizens contrary to the constitutional and international norms, the Ombudsman during the reporting year to the Ministry of Interior and its Minister has submitted several information to undertake measures to overcome the stated weaknesses in the operation of the police officers from the body of the Ministry of Interior dealing with foreign citizens.

In the operation of certain cases before the Ombudsman, the question has been posed of whether or not the misdemeanor bodies perform their function stated in several legal prescriptions. The general impression of the Ombudsman was that the Commissions for misdemeanors formed as misdemeanor bodies within the Ministry of Interior are the extended hand of the Ministry itself. In that manner the civil rights for use of effective legal remedy are being derogated as well as the main rule from the Law on Criminal Procedure that a misdemeanor procedure, may be administered only by a competent court which can also impose the misdemeanor sanction.

The constitution that the Law on Misdemeanors against the public order contains many blurry provisions enabling voluntary application of the Law by the police members who easily apply sanctions as fines where there are no conditions for that. The Law on Misdemeanors, which is a procedural law for all misdemeanors, envisages mandatory sanctions only of the perpetrator recognizes the act burdening them or if the official person (police officer) determines the misdemeanor personally by using proper technical means and e devices which is not the case in many cases. The Ombudsman still considers that the Law on Misdemeanors against the public order should undergo serious amendments stressing the protection of the peace and civil rights and not the protection of the police officers.

Regarding the use of means of coercion by the police in cases of restoring the disrupted public order at a larger scale, the Ombudsman salutes the decision of the Ministry of Interior to work toward the amendment of the Law on Police toward erase of the "stunt gun" and "rubber bullets" as means of coercion.

Also the efforts made by the Ombudsman to restrict, i.e. ban the means of coercion against children, visibly sick, old and exhausted persons, persons with visible disability and women with visible pregnancy.

Regarding the complaint, the Ombudsman submitted an opinion that the Law on Police should envisage medical assistance for the employees in the Ministry of Interior with the single purpose of using the forceful means to be safe and prevent the possible harm against the health and life of the citizens.

The Ombudsman considers that the provision from the Law on Police that refers to recording (by the police) at public sites, which according to the Ombudsman should be applicable for the police officers also, especially when they use means of coercion at public sites on gatherings and against demonstrators. The comprehensive recording of the public gatherings by the police shall contribute toward the prevention of the police brutality and also its escalation and shall increase the police responsibility.

Regarding the proposal on the Law on Monitoring of Information the Ministry of Interior has submitted a positive opinion on the proposed supervisory bodies for the implementation of the measures for monitoring of communications where the Ombudsman is also stated. Also, the Ombudsman considers that the introduction of several supervisory bodies for the implementation of the measures for monitoring of communications shall largely contribute to the prevention and protection of the main human rights and freedoms.

Conclusions

- *The Law on Criminal Procedure lacks precise measures for the implementation of the court orders for detention of persons whose immunity has to be previously revoked. This important issue has been regulated only with a by-law of the Ministry of Interior;*
- *Upon detention and freedom deprivation of police members for a criminal act, the police members do not take enough care for the presumption of innocence principle;*
- *There is still derogation, humiliation and brutal behavior toward the citizens by certain police officers who consider that they should be punishing the citizens and other persons while applying the police authorizations;*
- *The RM Public Prosecution keeps submitting untimely and unprofessional responses to the requests of the Ombudsman requesting determination of penal liability of police officers;*
- *The department for internal control, criminal investigations and professional standards fails to investigate the requests of the Ombudsman and the complaints of the citizens regarding the operation of the police officers, the victim is not included in the procedure and the acts are subjective and bias toward the police officers. This body also lacks a serious intent to discover and sanction the employees within the Ministry who violate the constitutional and legal civil rights;*
- *The misdemeanor commissions within the Ministry of Interior represent a typical example for arbitrary sanctioning of the citizens considering that they derogate the right to effective legal remedy and the main rule from the Law on Misdemeanors and that a misdemeanor sanction may be pronounced by a competent court;*
- *The police officers who take part bigger actions to keep the public order still violate the main rights and freedoms of the citizens as a result from their insufficient training and education in that field, as well as due to the imprecise and insufficient alignment of the prescriptions regulating the use of means of coercion with the international acts and standards.*

Recommendations

- *The detainment and freedom deprivation procedure of the persons enjoying immunity should be regulated in a clear and precise manner in the Law on Criminal Procedure, and not as a by-law as it is now;*
- *The police officers, in the execution of their assignments, should respect the principle of presumption of innocence and the application of the means of coercion should be strictly defined and controlled according to the international acts and standards;*
- *The Public prosecution should timely and properly process the criminal reports of the Ombudsman, administer quality investigations on the actions undertaken by the police officers and to keep special official records on these actions;*
- *The Ministry of Interior should undertake measures to abandon the arbitrary practice in the misdemeanor procedure where at the same time it is a complainant of the request and the misdemeanor body;*
- *The Ministry of Interior should implement continuous trainings and educational programs for the police officers participating in actions to keep the public order and to align the prescriptions for usage of means of coercion with the international acts and standards in order to avoid situations of violation of the human rights and freedoms.*

CIVIL STATES AND OTHER INTERNAL AFFAIRS

The citizenship, as a legal relationship between the citizen and the country, connected with many other rights of the citizens still poses a serious problem for the citizens that do not meet the requirements to obtain citizenship of the Republic of Macedonia and cannot realize that due to complicated bureaucratic procedures before the bodies of the Ministry of Interior and also due to other reasons. In the reporting years, just as years back, the complaints concerning citizenships were most numerous in the civil conditions area. The insufficient cooperation and communication of the involved bodies for citizenship, especially the Administration of Safety and Counter Intelligence that handles the fulfillment of the conditions and whether the requestor endangers the safety and defense of the country, as well as the lack of application of the favorable legal norms and still results in unnecessary delay of the procedures to acquire citizenship.

The right to citizenship being regulated in the administrative procedure according to the principles from the Law on General Administrative Procedure defining the deadlines for decision making reduced to a minimal time duration, is being unnecessarily lengthen, sometimes for years.

The long term monitoring of the conditions in this area, as well as in practice of the Ombudsman, confirm that in the procedure for obtaining citizenship the Administration for Security and Counterintelligence, by using authorizations at its own discretion puts itself in the capacity of arbitrary in the realization of this fundamental human right. Although the Law on Citizenship clearly determined that the condition for acquiring of citizenship is not to endanger the safety and defense of the country there are cases when ASCI gives negative opinions, not due to endangerment by the requestor, but due to unexplained and unelaborated reasons.

There is still an ongoing procedure before the court and the Ombudsman and the Constitutional Court about a woman born in the RM and a mother of six children born in the country and she cannot obtain citizenship because her former husband employed in the ASCI influences the negative opinion given about her by the security services.

The RM still has the condition of "foreigners on site", who came into the country due to various reasons, mostly as refugees from former Yugoslavia. These people live in the Republic for quite some time and still they have not regulated their civil status according to the RM laws.

The European Citizenship convention has been enforced since 2003 and starts from the principles not to leave anyone without citizenship, to enable acquire of citizenship for the spouses of its citizens, the requests to acquire citizenship to be reviewed in a reasonable period, its citizens to have another citizenship when that citizenship is automatically acquired by marriage as well as the principles of effective relation and will of the requestor. Although all European Principles have been incorporated in the Law on Citizenship of the RM, they are not properly respected.

The Ombudsman continuously points that having personal ID documents (public papers) is the condition to realize several rights in the political and legal system of the country and that certain legal solutions disable their realization. Therefore, more than twenty years since the adoption of the Law on Registration of Residence of Citizens still applies the provision according to which "it is considered that the citizen has an apartment to reside in, if they or a family member have an apartment ready to move based on ownership or lease agreement verified by a notary. This provision affects the homeless people who due to the restrictive nature of this provision cannot acquire a personal paper for identification, contrary to Article 35 from the Constitution of the RM, in line with which the country is obliged to care for and assist the helpless and disabled. According to the data disposed by the Ombudsman, there are over 200 homeless persons.

Due to these reasons, the Ombudsman to the Ministry of Interior and the Ministry of Labor and Social Policy has submitted an initiative for urgent amendment of laws and other by laws guaranteeing the citizens the realization of their rights, especially for the most vulnerable categories who cannot provide evidence requiring the actual prescriptions for civil conditions.

Both ministries responded with a positive reply to the requests of the Ombudsman by agreeing that there are some omissions in the Law on Report of Residential Address of the Citizens, the Law on Personal ID Card and other by-laws impacting negatively on the realization of the civil rights and that due to these reasons the laws shall be amended in 2018.

There were many complaints regarding the operation of the body competent for the civil record keeping, the Administration of Books, especially its department covering the regions for

Skopje and its municipalities. As stated in the previous reports, this Department does not cooperate with the Ombudsman's office within the obligations emerging from the Law on Ombudsman regarding the submission of quick, accurate and well-founded responses on the findings in the civil complaints. The Department does not act upon the requests by the Ombudsman to submit documents from the records such as certificates for the needs of the Ombudsman who requests them on the behalf of the citizens who are not able to do it for various reasons.

The record keeping bodies' employees do not apply properly the provisions from the Law on General Administrative Procedure regarding the principle of service orientation of the bodies toward the realization of the rights and interests of the clients, the principle of effective operation and protection of the rights of the clients as well as protection of the public interest.

Regarding the request by the Bosniak community in the RM to write in their language and letters as Bosnian and not Bosniak, as stated in the bylaws and forms for personal papers issuance in the Ministry of Interior, the Minister informed the Ombudsman that the Ministry immediately took proper action in order to modify the bylaws which govern the issuance of identity forms in line with the Ombudsman's proposal on the modification of the term "Bosniak language" with "Bosnian language" but it has not been implemented despite the time that has passed.

Conclusions

- *The right of acquisition of a citizenship in the RM is still a grave problem especially for those born in the country having strong and effective relationships in it;*
- *The settlement of the discretion rights of the ASCI still pose a serious problem, and a main obstacle for the effective realization of the citizenship right;*
- *The Administration for Record Keeping and its departments lack cooperation with the Ombudsman and have no capacities for service orientation toward the realization of the rights and interests of the citizens;*
- *The untimely issuance of documents for identifications of the citizens adversely affects the realization of their other freedoms and rights (right to prove identity, right to vote, freedom of movement and other social rights);*
- *The members of the Bosniak community still are not able to realize their rights in the personal papers issuance procedure in their mother tongue.*

Recommendations

- *The Ministry of Interior to diligently observe the European and domestic principles for acquirement of citizenship while deciding for and reviewing the citizenship requests in a reasonable period;*
- *The Ministry of interior should amend and apply the laws and by-laws regarding the report of actual residence and paper issuance for the persons falling under the vulnerable category for who the country is constitutionally obliged to care and protect;*
- *The RM Government should take actions for the quick responsiveness of the administration for record keeping and the regional departments to the Ombudsman's remarks and to become service oriented toward the requests of the citizens to issue documents from the official records;*
- *The Ministry of Interior for the members of the Bosnian community should immediately change the forms for issuance of documents for identification in their native Bosnian language.*

JUDICIARY

The complaints for the judiciary were once again most numerous and almost half of them regard the protection of the rights of the citizen's subject to enforcement, implemented by the enforcement agents. The other complaints referred to the operation of the public prosecution, the basic courts, the courts of complaint the Supreme Court of the RM and other judiciary bodies and a small number of complaints referred to the operation of the lawyers and notaries.

The Ombudsman, in this segment of operation, if we take out the complaints stating dissatisfaction and doubt in the manner in which enforced court decisions have been made, in certain cases, continuously concludes delay of procedures, disregard of the reasonable period litigation procedure and the proper provisions from the European Convention for protection of the human rights and freedoms.

The reasons for such condition, damaging the efficient realization of the rights of the citizens for just and fair trial are from objective and subjective character.

Precisely, they emerge from the frequent replacements of the trial judges, delay of the trial sessions and proceedings due to lack of conditions to hold them, overstepping the duty by unprofessional and untimely performance of the court and violation of the rights of the parties thereto. Also, there is unprofessional conduct and operation of the court administration by acting contrary to the provisions from the court rules of procedure while administering the cases and complaints of the clients.

Also, there has been disrespect of the deadlines within which the decision should be made by some basic courts and that is a constant matter in the operation of the Court of Complaint in Skopje and the Supreme Court. Also the procedures are still postponed upon the requests to trial within reasonable period because they are not settled within the determined term almost always with explanation that they have not been submitted or the acts from the cases cannot be provided.

Starting exclusively from the need to protect the rights of the citizens and the legal interests of the people intervened in the courts administering the procedure so that the cases along with the acts thereof be submitted to the Supreme Court for further action.

In certain civil courts, the Ombudsman found concerning situation on the cases for issuance a payment order due to unprofessional performance of the court function and improper manner of organization of the operations.

Namely, instead of as per the provisions from the Law on Litigation Procedure, being timely processed and resolved, such cases have been kept in the drawers of the civil courts. The most evident example for such rude beach of the timely trial principle has been detected in the Basic Court in Strumica, where no action has been made from 5 to 10 years.

The effects of such voluntarism and in (operation), if the claims/ payment orders are validated in the meantime, will directly damage the citizens without their blame because aside to the main debt, they will have to pay huge amounts of money for interests and costs.

What is concerning is the fact that one of the competent institutions, the Judiciary Council of the RM, did not take notice to this occurrence although it is a matter of long time period and a large number of cases.

The absence of effective and quality system of free legal help brings the citizens to the Ombudsman to ask and receive free legal assistance on where to address, which body can they contact to realize some right, the deadlines to act etc.

As a result, this reporting year, the case work analysis, shows that the practice of inefficient operation still progresses in the administrative courts and the procedures are still being delayed due to lack of quality communication with the state administration bodies and the clients and loss of enormous time period for the completion of the cases.

It is especially concerning that the administrative courts and the state administration bodies; there has not been initiative to implement mechanisms to accelerate the mutual communication because none of the stakeholders takes action to determine the responsibility why there is no efficient and quality action in the administrative and court protection of the civil rights.

According to the Ombudsman, the conditions cannot be improved without determination of responsibility and consequences if there is lack of quality in the operation and with lack of ef-

ficient control mechanisms whether, when and to whom the decision has been delivered.

Also a serious problem for the realization of the rights of the citizens is the inability of the administrative courts to execute their decisions from the state administration bodies, due to which the cases are being returned several times within their competence. The conclusion that these courts contribute to the creation of such condition is indisputable, as they do not use the legal authorizations to hold public debates and as a result decide on the merits.

Regarding the complaints against the public prosecution, the Ombudsman most frequently concludes that the procedures are being delayed. Also, instead of providing all necessary evidence, data and information, regardless of the degree of confidentiality and to enable implementation of the procedure, the prosecutions, almost without any exception, to the Ombudsman shall submit formal, incomplete and very inappropriate responses. For example, that, "it is still being acted upon the criminal report and after the gathering of all evidence a proper decision shall be made by the public prosecution".

Those responses are not enough to verify whether, when and which actions have been taken starting from the day of submission of the criminal report, nor can the nature of the reasons be defined (objective/ subjective), why a final decision has not yet been made.

The complaints against the Court Council for determination of fact and initiation of a procedure to determine responsibility of a judge or Legal Chamber were submitted due to lack of response regarding the requests by citizens to determine unprofessional operation of judges or for a committed disciplinary breach by lawyers.

With the amendments of the Law on Ombudsman that entered into force in March 2017, and due to the provision of presumptions for efficient protection of the constitutional and; legal civil rights, the Ombudsman became competent to act as a friend of the court authorized to participate in all stages of the procedure, with the right to provide opinions and suggestions that the court needs to consider.

In a few cases the Ombudsman requested to be included, however by the court presidents and judges administering the cases he was not allowed to act as friend of the court. Namely, according to them, the Ombudsman may attend litigation only as the public, and not by the Law in Ombudsman authorized to participate in all stages of the trial, to provide opinions and suggestions that the court should consider. Their explanation is that it has not been prescribed with the process laws- a practice that must end due its major interference with the operation of the Ombudsman.

Conclusions

- *The unprofessional and negligent performance of the judge function and improper manner of operation organization regarding the cases to issue a payment order;*
- *Inefficient operation of the courts and delay of the procedures, as well as disrespect of the decisions of the state administration bodies because instead of acting according to the stated legal stand points and provided points, they still adopt the same decisions as the previously annulled ones;*
- *The public prosecutions submit formal, incomplete and improper responses to the Ombudsman on their action upon certain criminal reports;*

Recommendations

- *Full examination and determination of separate responsibility for the rude breach of the reasonable period trial principle for the payment order issuance cases emerging from the court function and improper manner of work load organization;*
- *Undertaking measures for full realization of the administrative and legal protection of the civil rights, establishment of regular and active cooperation between all relevant institutions as well as measures to accelerate the administrative procedures;*
- *Amendments of the provisions of the Law on Administrative Disputes in order to implement imperative provisions for*

Conclusions

- *As for the cases the Ombudsman requests to be present as friend of the court, he is informed by the judges that it cannot be done and he can attend only as the public and not as per the Law on Ombudsman, to be authorized to take part in all stages of the procedure, with the right to provide suggestions and opinions which the court should consider. Their explanation is that it has not been prescribed in the process laws a practice that must stop for it rudely interferes with the operation of the Ombudsman.*

Recommendations

- *mandatory holding of public debates and meritory decision on the administrative work;*
- *Cooperation between the public prosecutions and the Ombudsman to provide all evidence, data and information, regardless of the degree of confidentiality and enabler implementation of the procedure;*
- *The undisturbed realization of the competence of the Ombudsman to act as a friend of the court with the right to participate on the litigation procedures and provide suggestions and opinions that the court should consider as well as all judges with no conditioning.*

ENFORCEMENT AGENTS PROCEDURES

The case work analysis of the Ombudsman during 2017 has shown that a large portion of the citizens requested an intervention regarding the implementation of the procedures if enforcement.

This, as well as other years, most of the citizens required intervention for procedures for enforcement in which the public enterprises were in the capacity of trustees, also this capacity was taken by companies with state owned and private venture, most often providers of certain services requiring collection of debts for utilities, telecommunications, credit and other services, as well as the use of electricity and heating energy and water supply.

From the complaints submitted to the Ombudsman, as most frequent basis for civil rights violations were the untimely or the lack of information on the existence of the debt, by the enforcement agent (the information is received by the banks when they attempt to collect the funds from the accounts being blocked), the lack of enforcement order by the enforcement agent, obsolescence of the debt burdening the citizens in the enforcement procedure. In addition to this, the enforcement orders cover claims already paid by the citizens, inconsistencies in the implementation of the procedure for enforcement towards collection of the debt from the income which according to the Law on Enforcement have been exempted from enforcement and also as basis for violation of the civil rights it has been stated that the realization and enforcement procedure, although for the concrete case there was an ongoing procedure for complaint before the competent court.

In the cases of violation of rights, the Ombudsman intervened by pointing towards recommendations to the enforcement agents on the correct application of the provisions from the Law on Enforcement and overcoming the situation endangering the existential minimum of the debtors. It was also intervened in order to eliminate other mistakes such as lack of observance of the order while applying enforced collection (simultaneous collection by several enforcement agents in the same manner), the lack of consideration of the evidence that a part of the debt has been paid etc.

In most of the cases, the enforcement agents, acted upon the Ombudsman's notes, by overcoming the omissions while implementing the enforcement procedure. Those are mostly situations in the enforcement procedure implemented on income acquired on the basis of social help, temporary unemployment and subventions social help, minimum retirement payment, in-

comes from abroad, legal support, which in the Law on Enforcement have been exempted from enforced collection or overstepping the legal maximum of 1/3 payment or pension. There is a small number of enforcement agent who did not observe that what was recommended by the Ombudsman and therefore he criticized their actions publicly.

In some of the cases, the Ombudsman acted upon it has been determined that the enforcement procedure has been implemented according to the Law on Enforcement and the Tariff for rewards and other costs for the operation of the enforcement agents, although the citizens stated that the costs emerging from the orders are too high and over the main debt amount for several times.

The Ombudsman acted upon complaints in which the citizens pointed that they did not receive decisions for enforcement, adopted on the basis of regular document by the notaries thereby missing the legally prescribed period for complaint.

In order to determine the actual situation, the Ombudsman required from the notaries to submit evidence and notify the debtors, and in cases of irregularities he advised the citizens to submit a proposition for annulment of the validity and enforcement of the decision through the notary to the president of the competent court and if the court decides positively, by submitting a proper complaint to the decisions.

It is typical for such cases that the notaries and enforcement agents in most of the procedures submit evidence to the Ombudsman that they have notified the debtors timely and diligently on the procedure and efforts were made to submit the notifications via mail, but most often the debtors were not to be found on the given address.

Conclusions

- *This reporting year the complainants of the complaints stated that their bank accounts were blocked without their consent and they are under a procedure for debt collection with an enforced decision. Such procedure additionally burdens the citizens with costs to the bank due to collection for DE blocking of the account;*
- *The amount of the expenses for enforcement as well as the amount of the interests are once again the focus of the complaints submitted to the Ombudsman by persons who consider that such expenses are too high for them to pay and often the expenses cross the amount of the main debt;*
- *The incomes acquired based on social help, pension, legal support and temporary unemployment, that have been exempted from enforcement according to the Law on Enforcement have been subject to enforcement, but in a lesser number than the previous reporting year;*
- *There are cases when the incomes acquired based on subventions for the development of the agriculture and husbandry which are given as single payment, are subject to enforcement while the manner of enforcement of such means has not been regulated with the Law on Enforcement.*

Recommendations

- *The enforcement agent should not undertake measures for the collection of the debt the debtor has been burdened with in the enforcement procedures, without diligent and timely informing the subject of such enforcement on the enforcement procedure;*
- *The measures for forcible collection (bank account block) in the enforcement procedures, should not be applied until the enforcement agent is informed on the basis of the income received by the debtor;*
- *The provisions from the Law on Enforcement should be applied while implementing the enforcement procedure and to consider the general living of the debtor and their family;*
- *The Law on Enforcement should be amended in the interest of the citizens, directed toward overcoming the problem with too high expenses for enforcement and debt interest;*
- *The Law on Enforcement should regulate the following-the funds from the subventions for development of the agriculture and husbandry should not be subject to enforcement.*

VOTING RIGHTS

The Ombudsman, considering that in 2017 the local elections took place, upon own initiative and acting upon complaints submitted by the citizens, undertook actions to promote and protect the right to vote. Here from, based on the implemented procedure upon citizens' separate complaints, from citizens referring to the violated voting right, the Ombudsman, concluded a situation with irregularities and violation of the voting right in several parts, as he has for several voting cycles back.

Namely, a certain number of citizens due to a system omission of the Ministry of Interior, were deleted from the Electoral List, only because the validity of their personal documents is about to expire in the period of announcement of the elections. Namely, although the person has a valid personal document on the day of the elections (06.08.2017), until 07.10.2017 and it is being renewed in the meantime, they were still deleted from the Electoral List.

Also, if these persons wish to be put on the Electoral List again, they should submit a request during the public examination and if they do not apply in the SEC regional office within the period the examination progresses in, they remain unlisted in the Electoral List.

According to the Ombudsman, this breaks the Constitution of the Republic of Macedonia which states that each person over the age of 18 acquires the right to vote which is equal, general and immediate and is being exercised on free elections by secret ballot excluding the persons having impaired business ability. This is also contrary to the Electoral Code, stating that the personal identity is proven by the voter with a personal ID card or passport

Consequently, for each electoral cycle realized during the several years back, most of the persons who are imprisoned are not on the electoral List mostly due to the fact that they do not have valid personal ID cards. The upper was confirmed by the Ombudsman by several examinations on the day of the elections in the biggest prison the Republic of Macedonia- Idrizovo penitentiary. Namely, on the last local elections, from a total number of 1810 persons, in the Idrizovo Penitentiary, SEC had only 955 on the electoral List.

In this sense, the Administration for Execution of Sanctions fails not submit a complete list of inmates having the right to vote and lacks coordination and cooperation between the prison administration and SEC in order to enable these persons to timely renew the personal OD cards by calling a mobile team of the MOI. In addition, there is lack of a comprehensive and accurate records for all persons being detained with their ID number and expiry date of the validity of their personal ID card which shall be timely submitted in order to initiate a procedure before the MOI for issuance of new personal ID cards.

Also, none of the authorities, particularly the prison administration, undertake any actions to inform the inmates continuously and timely on the manner they can provide personal papers, so the MOI mobile team is called in cases when the inmate requires so himself.

Regarding the exercising of the voting right of fatigue and ill persons, SEC makes it more complicated considering that a short time before he elections by an interior act- directions, determines which person is considered fatigue or ill, prescribes the manner how such persons vote and sets the conditions they have to meet, i.e. what evidence they should submit to the electoral bodies. These persons are required to notify SEC for the first and second voting cycle.

On the other hand, the Electoral Code is very clear and sets that if a fatigue or ill person wishes to vote, it is necessary to only notify the municipal electoral commission seven days prior to the day of the elections with no further conditions.

In the same time, SEC for this category of votes has an unequal and discriminatory treatment because they are not fully covered, i.e. to be able to vote in the place where they reside.

Therefore, they cannot vote at all in the places they reside such as rest home, rehabilitation centers, mental hospitals, clinical centers, gerontological facilities or at a long term treatment in hospitals or other medical institutions.

According to the domestic legislation and other ratified international agreements, the state through elimination of the administrative obstacles should provide voting right to all citizens, including the persons with disabilities and the persons deprived from freedom.

According to Article 31, paragraph 2, item 28 (d) from the electoral Code, SEC announces the Voting List on its web site with the following data, name, surname and address of the voters. It has also been envisaged that each citizens has the right to submit a request to SEC not to

publish their address in the Electoral List, due to safety reasons.

The application of the SEC is available on the web page (www.izbirackispisok.gov.mk), and provides access to the addresses of persons, residents of the RM listed in the Electoral List.

When searching by "address" if the filters "street and number" are avoided and only the options of municipality and place are entered, the list of the names, surnames and full address of all citizens listed in the electoral List are shown. In such manner, if the procedure is repeated for all municipalities in the RM, at the public display will be the names, surnames and the addresses of all RM citizens listed on the Electoral List. If it is searched by name and surname avoiding the other selection filters, the application offers public examination to all RM citizens listed in the Electoral List, with that name and surname on their addresses.

Such set application poses risk over all data because they can be misused for other purposes violating the constitutional and legal rights for personal data protection, a fact stated by the Personal Data Protection Administration.

Also, the permanent solution providing the right for each citizen to submit a request to SEC not to publish their address in the electoral List for safety reasons, the Ombudsman considers improper. Namely, it is certain that legal and technical assumptions may be provided from the announcement of the personal data in the electoral List and the electronic access to personal data on the SEC web page to be performed in a manner showing only own data in the system.

Conclusions

- *Certain persons, all though on the day of elections announcement have valid personal ID cards and in the mean time they have renewed them, due to system omission of the SEC (hereinafter SEC) are deleted from the Sole Electoral List and they cannot exercise their voting right;*
- *30 to 50% from the imprisoned persons cannot vote because they are not listed i.e. are not in the Electoral List;*
- *The fatigue and ill are being discriminated because without the objective circumstances from SEC, they are not enabled to vote where they reside for a longer period or permanently- rest homes, rehabilitation centers, mental hospital, clinical centers etc. in gentrological facilities or undergo long term treatment at a hospital or other medical institution;*
- *Violation of the personal information protection right of the citizens in the electronic access to the Electoral List.*

Recommendations

- *To amend the Electoral Code so that the MOI (after the locking of the Electoral List) be able to submit a report to SEC with data on the renewed or fully new personal id cards with changed address or surname and persons who became of legal age in the mean time;*
- *In order to be timely listed on the electoral List and exercise their voting right, to regulate the modalities for renewal of the personal id cards of all voters under prison punishment in the penitentiaries and educational and correctional facilities in continuity i.e. prior to the expiry date;*
- *Remove all administrative obstacles and find proper solutions to provide conditions from normative and material aspect, for the persons accommodated in rest homes, rehabilitation centers, mental hospitals, clinics and similar institutions, elderly care facilities or at a long term hospital treatment to be able to realize their voting rights without any conditionings at the place they currently are;*
- *To legally restrict the possibility to abuse the personal data in the electronic access to the Electoral List.*

MIGRANT/REFUGEE RIGHTS

The respect of the rights of the refugees and migrant during 2017 was one of the issues that the Ombudsman paid special attention.

The year was marked mainly by the closed border policy accepted and implemented by the Macedonian authorities. Such policy is a direct violation of the refugee rights principles envisaged in the Convention on the Status and rights of the refugees and other documents signed by the RM. This policy also provoked worsening of the otherwise hard situation of the persons seeking international protection through inciting illegal migration along with all safety risks for the life and safety of the migrants and refugees.

The NPM was in 30 preventive visits, 10 of which in the transit center "Tabanovce", 7 in the admittance center "Vinojug", 7 in the admittance center for foreign citizens in Gazi Baba, 4 in the admittance center for asylum seekers in Vizbegovo, 1 of village of Lojane and Vaksince and visit of the refugees from the Kosovo crisis in Vozbegovo.

NPM concludes that during the reporting year the problem with the illegal detainment of the center for foreign citizens remains unsolved. Namely, the practice progresses of persons being detained in the center with MOI decisions due to determination of the identity in spite of the fact that the sole competent body able to adopt a decision for detention is the court.

One of the main remarks by the NPM in the special reports is the lack of information of the persons regarding the duration and reasons for detention. Although the detained persons have been provided with copies of the decisions for their detention in Macedonian and English, due to lack of translators most of the persons do not understand the decisions and cannot use the right to complaint. Also these persons also are not familiarized with the house rules of the center in spite of them being shown on many visible places in the accommodation capacities.

The NPM determined that the persons detained in the center have no opportunity to take a walk outside the premises. Namely, although the right to take a walk has been envisaged with the house rules rulebook, still the lack of proper infrastructure of the center, the detained cannot exercise these rights.

Regarding the procedure for access to right to asylum, the NPM stated that most of the detained are aware of the possibility to submit a request for asylum recognition in the RM, but they can use such right after they testify before the proper court in the procedures initiated against third parties.

In one of the visits in the shelter center, the NPM team faced an attempt of the employees to cover up the detainment of 5 foreign citizens and interfere with the execution of the term of the NPM. Namely, during the visit, the NPM team found five persons from Syria in premises locked with a padlock for which the center manager claimed were empty and the presence of such persons was not recorded in the official records. From the conversation with these persons it was concluded that they were referred from the center without being informed on the reasons for detention and keeping without any information on their rights and were left for several hours without any food or water. The NPM reprimanded the total treatment and actions and gave a direct recommendation and requested their release which was accepted and they were released.

On the illegal detainment, the lack of records of detained persons, contrary to the; legal provisions as well as for the interference with the term of the Ombudsman through provision of faulty information on the number of detained persons and attempt for their cover up the NPM informed the public on a briefing with the press. At the same time, he requested from the Minister of Interior to take measures to examine the operation in the center and to determine the responsibility of the manager.

The Ministry of Interior responded justifying the situation of illegally detained Syrian citizens by their possible detention due to human reasons and provision of assistance such as food, and accommodation but if that is so, it remains unclear why the persons activities for renovation of the premises for accommodation in the Center and also as a result from donations from several domestic and international organizations the Center is properly equipped with kitchen appliances and other devices. Still, such improvements do not eliminate the need to dislocate the Center for which the National Preventive Mechanism has submitted recommendations for several times in the separate reports submitted to the Ministry of Interior, considering that this facility does not meet the standards for admission of people.

From the visits in the Asylum Seekers Admittance Center, the NPM team has concluded that during this year, one of the most serious problems is the quality and quantity of food provided to the persons accommodated in the Center.

In addition to the food, during the conversations with the persons accommodated in the Center, it was pointed out that the external fence of the Center is damaged and it poses a problem. Namely, the asylum seekers stressed that the persons accommodated in the social apartments immediately by the Center, always get inside the Center's area through the damaged part of the fence. Among other things, they disturb them late at night for hours, often resulting in verbal quarrels, theft of clothing and other items.

These and the rest of the remarks concluded from the visit of the Center were contained in the Special Report submitted to the authorities. The Asylum Seekers Admittance Center responded with concrete measures to be undertaken for the realization of the directed recommendations and the degree of their realization shall be determined by the NPM by a follow-up visit.

During the reporting year, the NPM has visited the transit center "Vinojug" for several times and concluded decrease of the number of refugees/migrants and if at the beginning of the year the number was between 30 and 40, by the end it reduced to only 3 persons.

NPM concluded that this year also there is an unresolved issue with the group deporting of refugees/ migrants in the country where the persons made the irregular entry on the territory of the Republic of Macedonia with no formalities and observance of the legal procedures and the decrease of the number of refugees in the Republic of Macedonia is due to such negative practice.

The Ombudsman- National Preventive Mechanism has condemned such deporting of refugees/migrants in the neighboring countries, in the special reports and also publicly, and considers that such actions are rude violation of the human rights, guaranteed by the Refugees' Status Convention from 1951, as well as violation of the human integrity and dignity. Also, in no manner can the explanation by representatives from MOI be accepted, stating that such manner of deporting of people with irregular entry is an established practice in the neighboring countries as well.

The National Preventive Mechanism concluded that during this year the coordination between the competent authorities in the Center has been improved with a far bigger transparency while undertaking actions by the competent state authorities and also by the non-governmental organizations on site. The National Preventive Mechanism has determined that the although the Admittance center still remains within the competence of the Ministry of Labor and Social Policy, MOI still has the final saying regarding the coordination and management with the admittance transit center "Vinojug".

Considering the decreased intensity of irregular movement of refugees/migrants, as well as the small number of persons accommodated in the past months in the Admittance Transit Center, the on-site teams of the present organizations are reduced. In that sense, the presence of healthcare services has been reduced and in emergencies when intervention is needed, they are on call. In educational sense, the educational programs implemented for children and minors in the past period have been realized with decreased intensity and the children cannot be included in the regular education process.

As a result, from the NPM intervention, regarding the limitation of the freedom of movement, several months back the asylum seekers accommodated in Vinojug were enabled to exit the accommodation center mostly accompanied by Red Cross representatives which is a certain progress regarding the restriction of the freedom of movement, implemented previously.

The NPM also paid several unannounced visits to the Temporary Transit Center "Tabanovce" concluding decrease of the number of accommodated migrants/refugees. Namely, at the beginning of the year the center accommodated up to 50 persons, a number that by the end of the year decreased to 12.

The readmission case of 48 persons on February the 9th that took place in the Temporary Transit Center "Tabanovce" is striking and covered migrants/refugees with stay longer than 10/11 months. Among these persons there were migrants who refused to leave the Center, two children born on the territory of the RM for which there was no birth certificate issued until then and one person undergoing a family reunion procedure with the rest of their family in Germany.

The NPM concluded that the readmission procedure was not transparent, considering that no body or organization present in the center "Tabanovce" were notified on the initiation of the

forcible return procedure.

The Ombudsman concluded that by implementing the procedure for readmission without timely informing the persons they are undergoing a forcible return procedure the rights of the migrants/refugees are being violated. The Ombudsman reacted on such omissions before the MOI and requested from the Ministry to submit the full documentation for readmission procedure, but the documentation was not provided, in spite of the interventions.

During July, the NPM team paid an unannounced visit to the Admission Center "Tabanovce" due to examination of received information for forcible deporting of 13 migrants/refugees accommodated in the and around the center. Aside to the information obtained from the representatives of the state bodies, international organizations and the non-governmental sector, the NPM during the procedure and undertaken actions has also examined the official video recordings owned by the Crisis Management Sector.

The NPM also concluded that on 16.07.2017 in the early morning hours MOI representatives in the TTC "Tabanovce" started actions to transport the migrants/refugees toward the Greek border by suddenly waking the persons accommodated in the Center, knocking and pounding with nightsticks on the doors, trailers/containers they were accommodated in. during the action, the MOI representatives used means of coercion-handcuffs. Also, only one family of three members voluntarily requested transport to Greece, and the other 10 persons were taken by force.

Such findings may be confirmed also from the manner in which the persons reacted on the unpleasant calls by the MOI officials that could be clearly concluded from the video recordings

From the examination of the record of PS Sopot, the NPM concluded that, in the record books for use of means of coercion there is no information on the precise events in spite of the fact that during the arrest the police used nightsticks and handcuffs.

The Ombudsman, during the procedure for the protection of the rights of these persons addressed the Crisis Management Center for several times and officially requested provision of the video recordings from the official cameras of the Center from the deporting (that were previously given to the NPM), as well as other explanations and information contributing to the determination of the actual situation of the stated event.

However, despite of the several addresses to the authorities, the video recordings for the forcible deporting have yet to be given for examination of the Ombudsman, which is a direct interference with his work, for which the Ombudsman informed the RM Government with a special report.

Regarding the freedom of movement restriction, the NPM concluded that the regime in the TAC "Tabanovce" is more liberal compared to "Vinojug", namely, the persons have the opportunity to leave the center during the day, but are still restricted within 19 hours during one day. Also the NPM concluded selective pass of persons in the TAC "Tabanovce" which had a timely reaction so the problem was quickly overcome.

The NPM team has visited and contacted the persons on the RM territory within the period of the Kosovo crisis 1998/99 that have difficulties acquiring the right to asylum and temporary protection and realization of the rights in the education area, healthcare protection, social protection and housing. For that purpose, the NPM organized two workshops during May 2017, a workshop themed "The situation of the refugees in the RM during the Kosovo crisis" and "Integration of the Kosovo refugees, permanent solutions and voluntary return". Also, the common conclusions were presented emerging from the work with all participants and possible solutions to overcome and solve part of the problems faced by the Kosovo refugees were proposed.

On the Kosovo refugee's situation, the Ombudsman held also a press conference pointing that the authorities should take action to permanently resolve the status of these persons and especially requested to consider the realization the rights of the children.

As a result, from the taken measures, immediately after the press conference, the problem with entry in the birth registry was overcome.

Conclusions

- *Persons are still detained in the admittance centers by decisions given by the MOI due to determining of the identity, although solely a court can make a decision on that basis;*
- *Detention of persons outside the legal procedures, lack of records of detained persons, contrary to the legal provisions and interference with the NPM operations by providing faulty information on the number of detained persons and attempt for their cover up by the officials in the Admittance Center for Foreign Citizens indicating the need to reexamine the operation of the Center and determination of responsibility of the management persons;*
- *The detained persons in the admittance center for foreign citizens still face difficulties in the procedure for asylum right recognition;*
- *The facility where is situated in does not meet the standards for accommodation and in spite of the announced construction of a new facility in 2017, it has not yet begun;*
- *The food in the Admittance Center for Asylum Seekers still remains one of the biggest problems considering that its quality and quantity do not meet the needs of the asylum seekers;*
- *The group deporting implemented by the MOI remain an unsolved problem, for such deporting are carried out with no formalities and observance of the legal procedures;*
- *The Crisis Management Center interfered with the operations of the Ombudsman, considering that they failed to submit the video recordings of the forcible deporting of the refugees from TAC "Tabanovce" during which the MOI used means of coercion not stated in the official records;*
- *The MOI has the final saying regarding the coordination and management with the centers, although the legal regulation, the management of the admittance center is within the competence of the Ministry of Labor and Social Policy in coordination with the Crisis Management Center;*

Recommendations

- *The MOI should immediately stop the procedure to adopt decisions to detain persons in the Admittance center for foreign citizens due to determination of their identity;*
- *The MOI Minister should take urgent measures to examine the operation of the Center and determine the responsibility due to concluded illegalities noted by the NPM;*
- *The detained persons in the Admittance center for foreign citizens should be enabled to submit a request for asylum at the moment they express intention to do so, with no delays;*
- *The MOI should take precise measures and activities directed toward dislocation of the Admittance center for foreign citizens in a facility meeting the standards for detention of persons;*
- *The admittance center for asylum seekers should take precise measures and activities to improve the food given to the asylum seekers accommodated in the Center;*
- *While implementing the forcible return of the refugees their rights should be respected which are guaranteed by the domestic regulation, the procedures should be implemented according to the legal procedures and official records should be kept for them;*
- *The Ombudsman should be enabled to inspect the full documents and to smoothly implement his term and the MOI should diligently record the events in the record books because the records should reflect the actual situation, not a false picture of the events and actions;*
- *The management and administration with the admittance centers should be implemented by the Ministry of Social Policy in coordination with the Crisis Management Center and the MOI should cover the safety of the refugees;*
- *The restriction of the freedom of movement of the people in the admittance transit centers is unacceptable and should stop immediately due to the fact that such restriction causes psychological deprivations with the refugees;*

Conclusions

- *In spite of the possibility for sporadic release, both admittance and transit centers restrict the freedom of movement of the refugees;*
- *The MOI implements reemission of the refugees without their timely information that they are under a forcible return procedure, implemented over persons under family reunion procedure;*
- *The Kosovo refugees, after 18 years still face an unresolved status in the RM and they cannot realize the legally guaranteed rights from the social, education and housing area.*

Recommendations

- *The MOI should stop readmitting persons who according to the international law cannot be subject to forcible return and timely inform the person's subject to forcible return and to timely inform, the persons covered in the readmission procedure on its initiation and implementation;*
- *Urgent resolution of the Kosovo refugees' status or voluntary return and realization of their legal rights in the area of social, healthcare, educational and housing area.*

PENITENTIARY-CORRECTIONAL AND CORRECTIONAL- EDUCATIONAL INSTITUTIONS

During the reporting year, there are no significant changes noted in the penitentiary and correctional and educational and correctional institutions regarding the conditions (material, technical, staff) and in the realization of the rights of the persons deprived of freedom. The conclusion that the conditions in these institutions are under the prescribed standards still remains as well as the remarks regarding the overcrowding causing other problems for the convicted persons in the penitentiary and correctional facilities regarding the accommodation conditions, nutrition, general and personal hygiene and the poor sanitary conditions.

Although the Ombudsman continuously submitted recommendations to all competent institutions for the urgent and compulsory measures to overcome such situations and to create better accommodation conditions for these persons, such actions have not been taken.

Namely, most of the complaints were submitted due to the dissatisfaction of the convicted and detained persons from the medical protection in the penitentiary and correctional institutions. They complained to the healthcare treatment, improper conditions in the prison medical offices, insufficient equipment with medical inventory and devices as well as the lack of medicines and insufficient number of healthcare and medical staff. In the context of the aforementioned, goes also the increased number of cases of death for which the Ombudsman, by own initiative opened 12 cases where the cause of death is to be examined and among other things he requested information from the Basic Public Prosecution whether a procedure has been initiated for the possible traces of violent death. The procedures for 6 cases have finished without initiation of a procedure by the Public Prosecution because, according to responses, the body has not detected traces for violent death in the cases and the rest of cases are still under a procedure.

In addition to the many problems, there were many complaints by convicted persons due to damaged health, particularly dental problems. Regarding these complaints, the Ombudsman in most cases succeeded in helping them by submitting reminders to the director of the institution of his legal obligation to take measures to repair the damaged teeth and set artificial teeth at the cost of the institution, which was accepted by the institution.

However, the conclusion remains that the healthcare protection system of these institutions is not functional and efficient, the convicted persons and the detained ones still receive medical treatment only during business hours of the healthcare service, excluding the Prison Skopje, where two shift operation of the healthcare service has been introduced.

During the reporting year, the number of the complaints referring to conflicts between the convicted persons has been most significant. Some convicts requested transfer into other sec-

tions of the institutions and part of them required to be transferred into another penitentiary and correctional institution due to safety reasons. The Ombudsman regularly intervened to the competent officials in the prisons by recommending establishing the justification of the requests of the convicts for their transfer which was largely accepted and the convicts were transferred in other departments or a procedure was initiated by the director for their referral/ transfer into another penitentiary and correctional institution.

Regarding the complaints for protection against torture and unprofessional behavior by persons from the security sector a small number of complaints was submitted upon which the Ombudsman after the undertaken measures did not confirm the findings i.e. the officials acted within their legal competences. Only one case had grounded suspicion that the official, while intervening toward the convict used improper means of coercion i.e. did not use the one easiest for the convict, according to the Directive for the Conditions and Manner of Use of means of coercion by the security sector of the penitentiary and correctional and educational and correctional institutions and has been concluded by the Administration for Execution of Sanctions, due to which a disciplinary procedure was initiated against the official.

Considering the actual condition, during this reporting period, in none of the cases there were indications that some official overstepped their authorization, due to which there was no requests for initiation of a procedure for determination of a penal responsibility by the Ombudsman.

The convicted persons frequently submitted complaints requesting to be visited by the Ombudsman and during the visit, in a conversation they complained due to the inability to use certain amenities, they asked for advice on the procedure to acquire such amenities, especially the weekend leave. Although in the cases no rights of the convicted persons were violated, but amenities the Ombudsman has no authority to act upon, he advised them on the manner to realize the amenities and took action to determine if they meet the conditions for their use.

The female convicts in the Idrizovo penitentiary often submitted complaints due to the dysfunction of the phone booths, poor hygienic conditions and unequal treatment for the work engagement pointing toward privileged work engagement, i.e. that certain convicts occupy two work posts and others do not work at all. In the sense of the previous, the Idrizovo penitentiary manager was advised to take measures and remove such unpleasant occurrences and at the same time the Administration for Execution of Sanctions within the Ministry of Justice was informed as a body that organizes, implements and supervises the prison sentence, and the Idrizovo penitentiary Manager received precise recommendations by the Ombudsman on the overcoming of such conditions.

Monitoring the situation with the realization of the rights of the convicts in other penitentiaries, and acting upon submitted complaints, the Ombudsman determined that in Stip penitentiary and Prison Skopje- Skopje the safety cameras do not function, i.e. the video surveillance as one of the important parts for the safety of the institutions, due to which the directors of these institutions received advice on the urgent need of measures so that they can be made functional.

The Ombudsman acted upon complaints from detained persons due to protection and realization of their rights concluding that there is no improvement in the prison departments in the penitentiary and correctional institutions regarding the overcrowding, accommodation conditions and hygiene as well as timely measures by the prison administration due to proper medical treatment of the detained persons.

Acting upon complaints of the detained persons regarding the events from 27.04.2017 in the RM Assembly, the Ombudsman continuously monitored the condition of these persons especially in terms of their medical condition and especially two inmates who began a hunger strike but one of them stopped the strike right after our visit. Regarding the conditions in the institution some of the detained persons complained to, to the Skopje prison manager, the Ombudsman submitted a note to undertake measures in order to accordingly apply the Law on Execution of Sanctions as well as the main principles of the European prison rules referring to persons detained by court order or deprived of freedom after an enforced verdict, i.e. to respect the human rights and dignity as well as the continuous monitoring of their health condition.

Conclusions

- *The overcrowding and poor conditions in the penitentiary and correctional institutions are still a bitter problem diminishing the human dignity of the persons deprived of freedom. The healthcare system remains dysfunctional and damages the convicted and detained persons who, among other things have no health insurance. Such condition cause dissatisfaction with the convicted persons and the detained ones and also creates suspicion in the effective treatment and other healthcare services in the penitentiary and correctional institutions;*
- *The security sector, the resocialization sector and the healthcare service are not lack professional staff and it reflects negatively on the convicted persons, regarding the individual treatment and their engagement in activities aiming toward social adaptation and successful resocialization;*
- *No measures have been taken to establish an effective educational process in neither penitentiary-correctional and correctional-educational institutions nor measures for efficient organization of the free time of the convicted persons.*

Recommendations

- *Measures should be urgently taken for the efficient resolution and decrease of the problem with the overcrowding through creation of basic conditions and resources (staff, material and financial), in order to provide dignifying conditions for the endurance of the prison/ detention sentences as well as measures for the unimpaired and efficient realization of the rights of the sentenced/ detained persons in line with the international and domestic standards;*
- *Further staffing of the sectors and services within the penitentiary and correctional institutions due to elevation of the goal of the criminal sanctioning, i.e. resocialization of the convicted persons as well as;*
- *Efficient implementation and establishment of mandatory education (primary, secondary) in the penitentiary and correctional institutions, further staffing of the educational service in the resocialization sector due to regular and daily presence of the educators in the educational process of the convicted persons.*

SOCIAL SECURITY AND PROTECTION

Even though the number of complaints in the reporting period has significantly decreased, still there are no significant changes regarding the problems and difficulties faced by the citizens in the realization of the rights in the area of social protection. On the other hand, in the complaints and also from the visits of the Ombudsman Institution, the citizens continued to complaint regarding the behavior and operation of certain municipal social work centers, they expressed dissatisfaction from the length of the procedures for deciding upon their requests as well as the lack of determining of the actual situation before making a decision upon their requests, especially in relation with the right to social financial assistance and the right to assistance and care from a third party.

Most of the complaints referred to the protection of the right to social financial assistance, and the citizens pointed out that they cannot realize this right although they are at social risk with no other incomes. The Ombudsman, acting upon these complaints has determined that the new request of the citizens is not receive in order to realize a certain right in the social work centers, or the requests receive a negative response and when adopting a decision for revoking of a previously recognized right, the social work center obliges the citizens to return the received funds referring to the Law on Social Protection.

From the actions taken upon the complaints it has been concluded that the decision for revoking of a certain right in almost all cases is due to the provision of incomplete or inaccurate

information and regarding the sole receipt of financial means from relatives, i.e. money transfer or lack of reporting of changes in the material or figure situation of the holder of the right. On the other hand, the legislator, with the amendments of the Law on Social Protection in 2014, envisages prohibition for the citizen to realize a certain right to social protection until they return the previously received financial means making the social risk of these families as well as the poverty they face even deeper.

According to the Ombudsman, this legal provision is contrary to the principle for social justice, established as a condition for the functioning of the social protection system and is also a type of sanction for a citizen who maybe without being aware brought themselves in a situation to be deprived of the right to social protection only because they gave inaccurate or incomplete information.

This conclusion, among other things, has been confirmed with the research carried out by the Ombudsman in 2017 on the conditions for the realization of the right to social financial assistance requesting information from all municipal centers for social work in the RM after which he prepared a Special report on the determined situation and submitted it to the Ministry of Labor and Social Policy with precise recommendations to overcome the stated weaknesses.

Aside to the report, the Ombudsman also submitted an Initiative for the amendment of the Law on Social Protection to the RM Government and the Ministry of Labor and Social Policy requesting to annul the provision from the mentioned law pointing out that the human rights and freedoms may be restricted only in cases determined with the Constitution.

The acting upon complaints in the area of social protection as well as the conversations with the citizens requesting legal advice in the institution, leads to the conclusion that this category of citizens are unsatisfied with the amount of the social assistance representing sole source for existence of the families and households under social risk. Their dissatisfaction is due to the fact that this help after three years of use decreases and the family/household receives significantly lower amount of financial means from the state.

Aside to the stated, the Law on Social Protection determines that for each member of the household the main amount increases for a certain coefficient, but up to five members, by which the families under social risk counting more than five members do not have social help for all members of the family. We pose the question; whether the set amount of social help the goal of overcoming the social risk with the vulnerable category citizens, especially the families with multiple members?

Analyzing the Law on Social Protection, the Ombudsman determined that it obliges the holder of the right to social help to report in the competent social work center to confirm the status and condition of the members of the family and household. On the contrary the user loses the right and cannot realize it in the next six months. On the other hand, in order to realize the right to social help they also have to report in the Employment Agency as unemployed persons and active job seeker which in accordance with the Law on Employment and Insurance in case of unemployment is an obligation to report as an unemployed person every 30 days in order to prove that they are actively seeking job, because if not they will be erased from the unemployed person's records and may report again after one year.

Considering the amount of help they receive and is the sole income of the family/household at risk, the above stated obligations expose the citizens who use social help to additional expense that impacts their otherwise low family budget they can barely live off.

Aside to the stated, the Ombudsman has determined many social help seekers, especially the members of the vulnerable groups, who do not have documents for all family members or some of them are not entered in the birth registry. For such cases, the competent Social Work Centers adopt a decision to decline the right to social help regardless of the fact that the members of the family/household meet the legal requirements for such right.

The Ombudsman, on the concluded weakness of the Law on Social Protection, informed the Minister for Labor and Social Policy with a recommendation that the Law on Social Protection needs to be amended considering the principle of social justice and equality and as well as to prevent further deepening of the social risk with this group of citizens.

The Ministry of Labor and Social Policy, regarding the submitted initiative and the Report from the implemented research in December 2017 notified the Ombudsman that the Law on Social Protection has been amended and that the provision in dispute has been deleted and that

acting upon the recommendation from the Special Report a task force has been formed to prepare a new Law on Social Protection considering the remarks of the Ombudsman.

From the complaints regarding the right to help and care from a third party it can be concluded that many citizens cannot realize this right due to the long procedures and the inefficient cooperation between the social work centers and the expert commission for issuance of findings and opinions for the need of help and care by a third party. Also it has been noted that the realization of this right has been made more difficult due to the delay of the procedures and the incomplete actions upon complaints before the Ministry of Labor and Social Policy as well as the incomplete action upon the directives given by the Ministry or the Constitutional Court for cases where the citizens underwent administrative disputes.

Although upon intervention of the Ombudsman, most of the complainants realized the right, i.e. the bodies acted upon their requests by adopting proper decisions, still the procedures continued for a part of the complaints with a remark that the body cannot act due to lack of documents by the first instance body or the Administrative court.

In the reporting years, the Ombudsman upon own initiative monitored the actions of the bodies regarding the provision of conditions for accommodation of the homeless persons under the Skopje Kale as well as the protection of the persons accommodated in the premises of the ex-court in Butel. Notifying the Social Work Center and the Ministry of Labor and Social Policy on the need to undertake measures to determine the actual situation in order to efficiently protect these persons, the Ombudsman pointed the need of temporary and proper accommodation and permanent solution regarding the housing of the homeless persons and provision of normal conditions for their living.

The Ministry of Labor and Social Policy acting upon the notices has undertaken measures and these persons who lived out in the open, in improvised homes under the fortress in Skopje were temporarily accommodated in the Public Sheltering Institution for children with educational and social problems and disrupted behavior in Skopje. Also they were provided with a hot meal, clothing, shoes and hygienic preparations, the children were enrolled in the Daily Center for Street Children and in cooperation with Roma NGOs as well as expert persons of the Social Work Centers works toward enabling of these persons to live and function normally and their integration in the society. Regarding the persons situated in the barracks of the ex-Basic court, upon request of the Ombudsman expert teams of the Municipal Center for Social Work inspected the facility accommodating these persons but the Ministry of Labor and Social Policy as well as the social work center fail to take any measures to solve the problem with their accommodation.

Conclusions

- *The Law on Social Protection contains provisions that instead of facilitating the access to the social protection rights, aggravate the material condition of the citizens under social risk and increases their dissatisfaction from the manner of provision of social protection;*
- *The citizens under risk, when accessing the rights of social protection face long and inefficient procedures being led before the centers for social work and the Ministry of Labor and Social Policy. And the Administrative Court as well;*
- *The social help users the right of who stopped by a decision of a competent center although still at social risk and have difficulties in the everyday living,*

Recommendations

- *Taking measures to amend the Law on Social Protection in order to provide bigger social protection and safety of the citizens at social risk and to provide efficient realization of the determined rights;*
- *Bigger professional communication and coordination between the competent bodies deciding on the social; rights of the citizens, as well as observance of the legal deadlines for decision making based on correct determination of the actual situation of the citizen at risk;*
- *The social work centers should receive the new requests of the citizens and the realization of the right should not be conditioned by previous return of the*

Conclusions

- cannot realize the right again until they have paid back the so called groundless funds;*
- *There is lack of continuous cooperation and coordination between the social work centers and the expert commission for findings and opinions regarding the right to care and help from the third party;*
 - *The competent bodies still have no permanent solution for the homeless persons under the Skopje fortress.*

Recommendations

- funds, if the citizen meets the legal conditions for recognition of the right;*
- *Timely realization of the right to help and care from a third party for which the centers and the expert commission should improve the communication and when examining they should accurately determine the healthcare condition and the person's ability to care of their own needs;*
 - *The RM Government and the Ministry of Labor and Social Policy should consider the problem with the homeless persons in the country and to take measures to improve the accommodating capacities and provide permanent solution through housing the homeless.*

PENSION AND DISABILITY INSURANCE

The Ombudsman in 2017 continued to monitor the condition with the realization of the right to age pension for the insured citizens- members of the second pension pillar for which near the end of 2016 he informed the public. Namely, after the information that elderly citizens who had 10 to 15 years until the realization for the right to age pension at the moment of concluding the membership agreement for the second pension pillar have been significantly damaged with lower pension amount. The ombudsman has opened a case by own initiative and monitored the actions of the relevant Ministry during the year. In the meantime, he acted upon complaints from citizens-members of the second pension pillar for the protection of the right to pension, through examination whether they are users of a risky group who could be damaged due to low pension amounts.

The Ombudsman addressed to the Ministry of Labor and Social Policy pointing out the need to amend the legal regulation regulating the issue of voluntary capital financed pension insurance. He also requested protection of the stated category of insured persons, i.e. their deletion from the Registry of the second pension pillar. He also pointed to the need of wider analysis of the total condition for the members- insured persons included in the second pension pillar, in order to find a comprehensive and proper legal solution helping the insured persons to realize a dignified pension.

After the remarks of the Ombudsman, the Ministry of Labor and Social Policy, in cooperation with the Agency for Supervision of the Capital Financed Pension Insurance (MAPAS) took measures and formed a task force composed of representatives from several institutions to review the issue of cost effectiveness of the membership in the second pension pillar for certain categories of members. Based on the analyses made by MAPAS, both pension companies and an expert from the World Bank engaged particularly for this matter, the Ombudsman has been notified that the possibility to revise the substitute rates and calculation of the pension for the retired persons from the first and second pillar is being revised due to the equitable calculation proportional to the percentage of the paid contribution for the first and second pillar. Also, by the end of the reporting period, the RM Government with a decision, formed a Council to monitor the conditions with the pension system, monitoring of the implementation of the reforms, initiation of measures to improve the conditions in the capital financed pension insurance and

provision of sustainability of the pension system in the long run. This Council after the review of the Analysis of the possible solutions to overcome the differences between the pensions from the two pillar system and the pensions from the first pillar of the pension system, as well as the Analysis by MAPAS and both pension companies, regarding the problems with the membership in the second pension pillar, concluded that the stated analyses are a good foundation to propose legal amendments in 2018 on the adequacy of the pension system and higher combined pensions (from the first and second pension pillar).

As a second problem noted in the field of pension and disability insurance in this reporting period is the complicated realization of the rights of the insured persons in the procedures upon complaints before the secondary state commission concluding that the most common reason for delay of the procedures upon complaints before the State Commission for Decision Making in Work Relation in the Secondary Degree is the delayed submission of the documents for the proper cases by the Pension and Disability Insurance Fund of the RM and its branch offices as a primary body. Because of that he requested from the primary bodies to undertake action to overcome the stagnation in the procedures and to submit the complaints and documents with no delay to the competent commission to act upon them. The Ombudsman intervened before the Administrative Court in cases when there was a lack of the clause for verdict enforcement and after each intervention, the clause for verdict enforcement was immediately sent and the procedures continued before the competent body.

As the in the previous years, this year the Ombudsman established that due to the fact the State Commission for Decision Making in Work Relation Procedure and Administrative Procedure in a Second Degree is unable to decide on the merits upon the civil complaints as well as the Administrative Court due to which the citizens have been forced to lead administrative and court disputes and on the other hand they lose confidence in the efficient and just acting and decision making of the bodies and institutions.

In addition to the mentioned, the Ombudsman concluded violation of the rights of the insurers who cannot realize the right to age pension, in cases when there has been additional payment of the contributions for the pension and disability insurance upon enforced decision through an enforcement agent or through the Public Revenue Office. The Ombudsman, after the taken measures and consultations with the Pension and Disability Insurance Fund of the RM concluded that the information system used by the fund does not accept or read properly the data for the contributions of the citizens. According to the officials in the fund, the Law on Contributions from the mandatory social insurance for the particular cases is inapplicable for technical reasons, and the sole manner to solve the problem is through amendments of the law. The Ombudsman submitted a recommendation to the RM Pension and Disability Insurance Fund pointing that the technical problem mustn't be an issue in the realization of the insured persons' rights and to overcome it he proposed adoption of temporary acts with a contributive pension amount which would mitigate the condition in which the concrete insured persons are and in the meantime the Fund, as a competent body should find a comprehensive solution by which the citizens would be given decisions with calculated correct and legal pension amount.

Regarding the right to realization of disability pension the complaints of the citizens were due to the subjectivity of the decision making by the Department for Estimation of the Work Disability within the Pension and Disability Fund. The Ombudsman intervened in each case by requesting from the Fund to actually and fully determine the actual situation considering the findings of the citizens for the lost work ability in order to realize their right to disability pension equitably and timely. Aside to the stated he intervened to the competent bodies upon submitted complaints by citizens who referred to the realization of the right to family pension, calculation of the years of service as well as violation of the rights related with the pension as subject to enforcement, however this number of complaints was significantly decreased regarding the last reporting year.

Acting upon complaints by citizens for the realization of the right to pension with an international element, the Ombudsman this year too cooperated with the Ombudsmen of the proper countries and as a result all citizens meeting the legal conditions for the right to pension fulfilled their rights as well as the ones who requested for protection from the Ombudsman.

Conclusions

- *The mature insured citizens included in the Second Pension Pillar have their rights violated because they have not been enabled to realize a dignified pension proportional with the paid contributions for the years of service even though the competent bodies have undertaken measures and actions over the year to solve this problem concerning a large group of insured citizens;*
- *There is a lack of full efficient cooperation between the Central office and the branch offices of the Pension and Disability Insurance Fund of the RM, due to which the citizens are in long administrative/ court procedures for the realization of the rights from the pension area;*
- *The RM Pension and Disability Insurance Fund information system due to technical reasons does not accept/ read correctly the data for additionally paid contributions through an enforcement agent or the Public Revenue Office, disabling the citizens to realize the right to pension.*

Recommendations

- *Amendment of the legal regulation regulating the issue of voluntary capital financed pension insurance directed toward deletion of this category of insured persons from the registry of the Second pension pillar;*
- *Taking measures to improve the cooperation and coordination of the branch offices and the Central office within the Pension and Disability Insurance Fund of the RM due to easy and efficient provision of the rights of the ensured persons;*
- *Finding a permanent system solution in the Pension and Disability Fund of Macedonia for the smooth realization of the right to pension of the insured persons to whom contributions have been additionally paid.*

HEALTH INSURANCE AND PROTECTION

The right to healthcare protection and healthcare insurance is still hard to realize and this reporting year the complaints related to the participation for the healthcare services and participation exception were most numerous, as well as the hospital treatment, the dissatisfaction from the healthcare protection and health services etc., as well as the problem with the delay of the administrative procedures for the realization of the rights especially in the secondary procedure before the Ministry of Health.

The problem with the charging of the gynecological services was characteristic for Roma patients this year as well for which a large number of complaints were submitted. It was notable that the complainants of the complaints feared that they would stay without gynecologist if they state their data, which impaired the efficient actions to determine the condition. The Ombudsman, aside to the separate actions upon the submitted complaints also initiated a procedure by own initiative regarding the illegal charge of the gynecological exams of the patients by the private healthcare institutions. In that context, aside to the submission of requests for supervision to the State Healthcare Inspectorate, he submitted a recommendation to the Ministry of Health for the urgent need of measures and activities for the proper application of the Programme for active healthcare protection of mothers and children envisaging financial means for expenses for healthcare services related with pregnancy, i.e. payment relieve.

This recommendation of the Ombudsman was accepted by the Ministry of Health and for its implementation it obliged all healthcare institutions that have an agreement with the Healthcare Insurance Fund to apply the Programme covering all insured and not insured pregnant women as well as the pregnant women who do not have personal papers pointing that the financial

means necessary during the pregnancy and delivery will be covered with the Programme for Active Protection of the Mothers and Children in the RM.

At the same time, the undertaken activities related to this problem by the Ombudsman contributed to the functioning of the gynecology department in the healthcare institution in the municipality of Shuto Orizari for which the Ombudsman continuously sought for a solution over the past eight years.

Acting upon complaints from citizens for the lack of issuance of a release note after a hospital treatment, because the patients were required to pay the expenses for the stay in the institution, the Ombudsman concluded that this is a case concerning the socially vulnerable citizens. Considering the stated, the healthcare institutions were advised that the hospital treatment and release note issuance must not be conditioned with the previous payment of the participation and in that context he requested for a proper application of the Law on Healthcare Insurance in accordance to which after the hospital treatment, the institution provides the insured person with a release note and the selected doctor receives directions for the further treatment.

Due to the frequency of this problem, which reoccurs each year, the Ombudsman started an initiative to amend the Law on Healthcare Insurance in order to create a legal base for exception from payment of participation for hospital treatment and specialist consultations for citizens who use social assistance and children below the age of 18 who have no healthcare insurance on other grounds. This initiative submitted to the RM Government was accepted and obliged the Ministry of Health to prepare amendments of the Law on Healthcare Insurance. On the other hand, regarding the hospital treatment, it is important to mention the interventions of the Ombudsman in a case when the patient could not make an appointment and be treated at the Orthopedics Department at the Traumatology, Reanimation and Urgent Center Clinic. Namely, after numerous actions and remarks to the healthcare institution, the patient managed to make an appointment for a specialist examination, admission in the healthcare institution and surgical treatment. After 7 months the patient realized their right to healthcare treatment and medication and underwent a surgery in accordance with the medical findings and analyses.

The number of complaints referring to the delay of the administrative procedures before the Ministry of Health and regional services of the Healthcare Insurance fund was significant. Acting upon the cases it was concluded that there have been inadequate actions and duration of the procedures for several months due to the untimely submission of documents from one body to another and untimely completion of the documentation. In order to overcome such actions, the Ombudsman examined the Ministry of Health which acts as a secondary body and in the regional services of the Healthcare Insurance Fund pointing the need to act in the legal deadlines in order to secure the principle of legal safety aside to the observance of the administrative procedure principles.

The Ombudsman acted upon complaints where it was needed to refer expert staff from the Chamber of Medicine of the RM in order to eliminate the suspicion for the possible improper treatment. However, the expert supervision did not take place due to lack of finances. The Ombudsman, concluding that the Chamber of Medicine should perform the competences set put by the law, submitted information with proposed measures to the Minister of Health. The Draft- measures were accepted with the promise that the following year the costs for the expert supervision by the Chamber of Medicine will be provided through proper budget items of the Ministry.

The reporting year was marked by the acting upon the case for procurement of medicines based on the parallel import due to the present reactions in the public for the quality and safety of medicines being procured on this grounds, for which the public was informed. The ombudsman, after the inspection in the Agency for Medicines and the gathered data from the healthcare institutions for parallel import of medicines, as well as the analysis of the provisions of the Law on Medicines and medical means to the RM Government submitted an initiative for the amendment of the mentioned law. Namely, starting from the need to enhance the procedure for safety and estimate of the quality of the medicine released into circulation in the RM, based on the parallel import the Ombudsman by submitting initiative requested mandatory estimation of the quality of the medicines by the Commission for Medicines, upon parallel import, also a registry of medicines from parallel import, control over each imported medicine batch prior to putting it in circulation, discard of the possibility for temporary approval to put the medicine into circulation, i.e. provision of a certificate for quality of the medicine and alignment of the provisions of the entire law with the regulation of the EU regarding the production and release of the medicines and medical means.

Acting upon the submitted initiative by the Agency, with submission of the opinion of the Ministry of Health, the Ombudsman has been informed that it has been accepted and the RM Government after the determination of the proposal for amendment of the Law on Medicines and Medical Means, at its session held prior to the beginning of January 2018 submitted it to the RM Assembly to be adopted.

Conclusions

- *The healthcare protection and insurance system still faces inconsistencies through the untimely realized examinations, the problems with the status of the healthcare insured citizens and the length of the procedures;*
- *The problem with the illegal charge of the gynecological examinations and pregnancy monitoring of some private healthcare institutions is still present although the means have been envisaged with the Programme for Mothers and Children;*
- *The lack of action for the legal obligation for professional supervision by the Chamber of Medicine of the RM continues due to lack of financial means;*
- *The citizens endure harmful consequences due to the long term procedures for decision making upon their requests and untimely and improper actions by the Healthcare Insurance Fund and the Ministry of Health.*

Recommendations

- *System activities for the reforms of the healthcare system should be undertaken so that the right to healthcare protection of the citizens can be realized and they could have an efficient approach to the healthcare services, especially the vulnerable categories of citizens;*
- *The Healthcare Insurance Fund should control the private gynecological healthcare institutions regarding the charge of the participation for the healthcare services which are free and covered with the funds from the Programme for Mothers and Children;*
- *The Ministry of Health as a competent authority in the area of healthcare should provide financial means for the implementation of the expert supervision by the Chamber of Medicine of the RM;*
- *The Healthcare Insurance Fund and the Ministry of Health should take proper action including the legal amendments to eliminate the problem with the tardiness and length of the administrative procedures so that the citizens can realize their rights in the legally envisaged deadlines.*

RIGHTS OF CHILDREN

The Ombudsman through the Department for protection of the child's rights and the rights of persons with disabilities this reporting period acted upon complaints submitted by children, family members and other close relatives of the child. At the same time, he acted upon requests of civil organizations for protection of child's rights and due to realization of the violation of the rights of a larger group of children/ persons with disabilities, by own initiative opened procedures for 12 cases.

The conclusion for the involvement and abuse of students by responsible persons in the schools remains indisputable, also their inclusion in protests during the classes at the same time it is concerning that there are unregistered forms of children sheltering with practice of religious rites and rituals contrary to the Constitution, the Law on Protection of the Children and the Convention for the Children's Rights.

On the other hand, there are still schools practicing segregation of the children on ethnic grounds, as well as institutions that seemingly respect the traditions of a certain ethnic and turn a blind eye to the fact that minors engage in extramarital unions which instead of protecting they violate the rights of the children.

There is no noticeable progress regarding the realization and protection of the rights of the children/ persons with disabilities in none of the areas, especially in the education where it is indisputable that in the middle schools the inclusion of the children and young persons with disabilities is superficial and far from actually implemented.

The institutional form of sheltering of the children without parents and parental care does not provide full and proper protection nor contributes the child to feel as the other children and also grow and develop like the rest of them who do so in their families. Aside to the stated, the problem with the access to rights and efficient protection of the children whose birth has not been registered in the birth registry is still present, contributing this children to be at constant risk of any kind. The state has not established a system for early discovery and prevention of the drug addiction of the children who use drugs and other psychotropic substances, there are no protocols for proper medication nor special medical center for treatment of children who use drugs.

Rights of the children in a family

Most of the submitted complaints refer to the rights the children realize within the family. The competent bodies and institutions from protection of the rights of the children have shown insufficient commitment in relation with the realization of their right to personal relations and immediate contacts between the child and parent with who it does not live. The stated was the reason to increase the number of the complaints regarding the actions of the professional teams in the social work centers with remarks by the parents of the children that the decisions for the realization of the rights to contact between the child and parent the child does not live with are contrary to the best interest of the child and protect the parent more than the child. Furthermore, due to lack of implementation of the decision for contact and interference by one of the parents, often the child experiences resistance to contact with the mother/father and the centers instead of taking measures determined by the Law on Family try superficially through interrupted meetings to contribute to the overcoming of the conflict conditions and relations between the parents.

Regarding such condition and the conclusion of the Ombudsman on the inefficiency of the social work centers for the monitoring of the performance of the parenting right and realization of the decisions for contact that they adopt, during 2017 the Ombudsman carried out a research after which he prepared a Special Report on the condition with the realization of the right of the child to personal contacts with the parent it does not live with. The report contained the conclusions on the condition with the realization of the parenting right and actions of the municipal centers for social work and the Basic Courts in the RM in that regard.

The state report served to inform the Minister of Labor and Social Policy at a common meeting with all directors and professional persons in the municipal social work centers attended by the Ombudsman as well. This report also confirmed the multiannual conclusions of the Ombudsman that the leading principles of the Convention for the Children's Rights-the best interest, the right to participation, stating opinion a non-discriminating, are more declarative than essential leading principles that the competent body observe as well as the bodies and institutions that are supposed to care for the child, its rights and interests. In addition, the professional teams, through research, not always take measures and can efficiently influence the parent impairing the right to contact of the child and the other parent. In that sense, the Ombudsman concluded lack of a mechanism for effective monitoring of the solutions and the decisions for the realization of the right to contact between the child and the parent it does not live with, measures are rarely taken toward the parent who interferes with the maintenance of the contact between the child and other parent which impacts negatively on the child's development.

Regarding this and other rights of the child in the family, the Ombudsman recommended that the Ministry of Labor and Social Policy to take continuous measures to monitor the actions of the social work centers, as well as measures for surveillance over the professional operation

of the competent teams regarding marriage, family, custody, protection of children etc. at the same time he recommended for the caters to work more frequently with families at risk for which a continuous training is needed for the professional teams in order for them to recognize the best interest of the child and actions directed at the respect of this principle.

Domestic and other types of violence against and among children

There has been a significant number of complaints submitted by agents for the protection of child against violence by the teachers and services in the schools as well as violence among peers. The data that the violence is still applied as educational measure by the teachers are disturbing, but this is also done by security services employees engaged by the school for the safety of the children.

The Ombudsman acting upon these complaints before the competent bodies in the schools and municipalities included the State Education Inspectorate due to determining the condition with the purpose of protection of the children from violence and sanctioning such behavior. Also, he clearly recommended respect to the physical, moral and mental integrity of the child by the teachers and other staff in the schools, pointing out that it is forbidden to use any type of violence against the children, including when it is at school.

After the intervention of the Ombudsman, the findings indicating violence have been confirmed in two schools, after which the teacher was under a disciplinary procedure and they were financially sanctioned by the director who continued to monitor the actions and the behavior of the teacher. In the second case, referring to an employee in the security service the school terminated the contract and the person was not further engaged to secure the school and by the local police station a misdemeanor was concluded according to the Law on Misdemeanors against the public order and was fined.

Acting upon a complaint for the protection against violence of a child in the PI for sheltering children without parents and parental care, the institution did not confirm the findings for committed violence against a child by an educator, but upon a recommendation by the Ombudsman, the educator was transferred to another work post with a restricted contact with children and the institution for all employees organized training to recognize and handle a child-victim of violence.

The Ombudsman urged the competent bodies and institution where the children realize their rights to treat them as subjects-holders of rights and obligations and to provide environment where the children's safety and the application of non-violent methods by the teacher and other staff will be a priority, by respecting the children and motivating them to respect each other.

Rights of children - members of marginalized and vulnerable groups

Finding a solution regarding the problem with the lack of registration in the birth registry of the children from the Roma community was one of the priorities of the Ombudsman in this reporting period.

Complaints have been submitted regarding the stated problem by parents and a Roma civil organization, upon which the Ombudsman has continuously taken measures toward the social work center as guardian body and the administration for record keeping, and those actions resulted in acceptance of the remarks and entry of the children in the birth registry.

The Ombudsmen in the operation so far, in several different areas saw the problems and difficulties faced by the persons who are not registered in the birth registry, i.e. the persons without legally recognized identity, name, surname, address, and unique ID number, among whom there are many children.

It is clear that these children do not have access to the right to healthcare protection, education, social protection etc. and when their parents submit requests for entry in the birth registry they face obstacles due to inability to submit the necessary documents as evidence for the determination of the time and place of birth exposing them to social and healthcare risk with serious consequences for their life.

Considering such condition, the Ombudsman to the RM Government submitted an initiative to amend the Law on extra-judicial procedure with a proposition to determine a new chapter – Procedure for Determination of the Time and Place of Birth by a Competent Court, which would determine the deadline within which the court would decide and to amend the Law on Record Keeping enabling recording based on a court decision.

The RM Government accepted the initiative and obliged the Ministry of Justice and the Ministry of Labor and Social Policy to take measures for the proper amendment of the state legal prescriptions, which according to the Ombudsman is worth to salute, because it can help overcoming the problems with the unregistered persons in the birth records most of which Roma.

On the other hand, monitoring the condition with the provision, realization and protection of the rights of the children and from the contacts with the NGOs, the Ombudsman noticed the problem with the so called marriages between minors and the consequences for the minors from the extramarital union. Namely, the fact remains that although the marriages among minors do exist, none of the bodies takes notice of this problem. On the contrary, it is allowed to create an extramarital union with and between minors (children) despite of them not being mature enough to objectively and seriously understand the obligations emerging from the extramarital life.

According to the Ombudsman, this problem in the RM is not sufficiently stressed, there is lack of mechanisms to monitor by the competent institutions and the legal regulation insufficiently recognizes and sanctions such actions. Namely, the Law on Family has not regulated the case when a person (child) enters into extramarital union with another person who is not of legal age, nor the issue of extramarital union with a person who is 16 years old, but not 18, which is one of the reasons for lack of records for the extramarital unions between and with minors (children). Aside to this, there are no efficient programs and measures to solve the problem with the extramarital unions between children (minors) in the RM and the institutions cannot react properly in accordance with the best interest of the child, in cases when the parents or other persons/institutions report that the child has entered an extramarital union with another person (child).

In order to prevent and stop the further spread of this occurrence of marriage between children, the Ombudsman has submitted an initiative to the Government of the RM for the amendment of the Law on Family, the Criminal Code and the Law on Secondary Education. Also, he recommended to amend the Law on Family with a provision forbidding for a minor to live in an extramarital union and to envisage an exception, under the same conditions and in a procedure set out by law to allow living in extramarital union of a minor being over 16 and under 18, making the extramarital and marital condition equal and will help to establish a system of record keeping of the extramarital unions between minors and with a minor which lacks at the moment.

He also recommended amendment of the Criminal Code in order to sanction the living of a person of legal age in an extramarital union with a person over the of 16 but under 18 with or without the consent of the parents or the guardian. Also he recommended amendment of the Law on Secondary education by determining the obligation of the parents to report when the educational process is being abandoned due to the formation of a marital, i.e. extramarital union of their child and that fact should be mandatorily entered in the student's data base.

This initiative of the Ombudsman was accepted by the RM Government which according to the Ombudsman would enable the competent institutions to harmonically act and undertake measures in cases of extramarital union and protect the rights of the persons that enter child marriages.

The Ombudsman, in the reporting period, regarding the condition of the children without parents and parental care, as well as the provision of prevention and protection of the children using drugs and other psychotropic substances conducted two researches and based on them prepared to Special Reports. The inspections of the public institutions for children protection in Bitola and Skopje can draw the conclusion that the institutional care and protection provided for the children without parents and parental care is still being applied in spite of the tendency of the state to de- institutionalize this process.

Furthermore, the number of children without parents and parental care in the institutions remains significant, adding the concerning fact that the Home for Infants in Bitola and the Home II Oktomvri in Skopje contain children crossing the annual age for their accommodation i.e. they

have been staying for a longer time. Due to the number of the children in the institution, the individual treatment and approach to the children- users has been disabled, and the information obtained from the children that they do not feel loved by the others and they perceive them as problematic children is very disturbing as well as the stereotypical opinion that the adults hold for them considering them as foster home children.

On the other hand, the research on the condition with the children who use drugs and other psychotropic substances confirmed that there is lack of an early detection and prevention system for drug abuse by the children, the experts working in the institutions competent for the protection of the children and defense of their best interest do not recognize the risk of drug abuse and abuse of other psychotropic substances. The healthcare institutions lack proper departments for protection and treatment of these children, as well as proper programmes for their rehabilitation and resocialization, protocols for proper treatment or special medical center for their treatment.

The Ombudsman will continue to monitor this problem the following year as well and according to the competences and in cooperation with all involved bodies and institutions, central and local, including the civil organizations in this field, will rise this matter in order to find the best solution to protect the children using drugs and other psychotropic substances.

Rights to the migrant/refugee children

Regarding the realization and the protection of the rights of the migrant/ refugee children a small number of complaints were submitted but the action upon them showed that this problem concerns a large number of refugee children.

Namely, the Ombudsman, acting upon the submitted complaint from "Megjasi" for the protection of the rights of the children from refugee families from Kosovo, accommodated in the social building in Vizbegovo village, in relation with the realization of the right to education, undertook actions toward the Center for Refugees and foreign Citizens within the Ministry of Labor and Social Policy, the elementary schools "26 Juli" and "Brakja Ramiz I Hamid", from the Suto Orizari municipality and visited a few families situated in the mentioned facility. Also, in order to overcome the problem, their Ombudsman cooperated with the UNHCR office in Skopje.

The measures taken by the Ombudsman resulted in success and the children accommodated in the social building in Vizbegovo village started to attend school with organized transport by the Center for Integration of Refugees and Foreign Citizens and the High Refugee Commissariat in Skopje.

The Ombudsman during the action concluded other omissions regarding the refugee-families from Kosovo accommodated in the said facility, especially regarding the realization of the right to social financial assistance for some refugees and lack of issuance of id numbers for some newly born children.

Regarding these issues, the Ombudsman took action toward the Asylum sector within the MOI and the Ministry of Labor and Social Policy resulting in overcoming the problem, i.e. issuance of an act for the status under subsidiary protection of the children removing the obstacles for the financial social assistance.

The Ombudsman, regarding the problems faced by the families of the Kosovo refugees in the reporting year organized a theme meeting resulting in precise conclusions for all competent bodies to solve the problems and issues of these persons.

Aside to the case work, the Ombudsman actively participated in events and activities organized by domestic and international organizations to improve the conditions of the refugee children, asylum seekers, persons under subsidiary protection, foreign citizens and children without citizenship. In that context he gave his contribution in the task force on the project supported by UNICEF on the following topic: "The access to education of the refugee children and migrant children as a key process for their integration". This activity resulted in the preparation of a publication under the same title containing recommendations for the amendment of the legal framework for education in order to secure full and unhindered access to education for these children.

Healthcare protection of the children

Regarding the realization of the right to healthcare protection of the child, the Ombudsman acted upon a relatively small number of complaints and in a few cases he initiated a procedure and by own initiative for the protection of the health of certain categories of children. In that sense, acting upon a complaint submitted on the behalf of a group of parents of children suffering from cystic fibrosis concluded inability of these persons/children to realize the necessary medical examinations and treatment at one location because the medical files from the Clinic for Children's Diseases – Skopje were not transferred in the JZU Institute for Lung Diseases of Children in Kozle, within which operates the Cystic Fibrosis Center.

With the purpose of protecting the rights of the children suffering from cystic fibrosis the Ombudsman submitted advice to the JZU University Clinic for Children's Diseases requesting to take measures for the unobstructed realization of the examinations of the patients suffering from cystic fibrosis in one location, the examinations would be pulmological, microbiological, physical therapy treatments and other special treatments. At the same time, he pointed out the need to respect and fully realize the agreement to undertake the cystic fibrosis center.

The Ombudsman informed the Ministry of Health, i.e. the Sector for Secondary and Tertiary Healthcare protection for the stated situation and requested urgent measures to define the system serving to realize the healthcare protection of the patients suffering from cystic fibrosis.

The Ministry of Health submitted a written correspondence to the JZU Clinic for Children's Diseases and obliged it to within five days receive and overhand the medical files for the patients in the JZU Institute for Lung Diseases with children – Kozle after which the patients suffering from cystic fibrosis were enabled to fully receive the necessary healthcare protection and treatment all at one location.

Also, acting upon a complaint from a parent regarding the non- recognition of the right to the child to have an orthopedic assistive device – scoliosis corset upon recommendation from an orthopedic surgeon, the Ombudsman addressed to the regional service in Skopje of the Health Insurance Fund of the RM and he was informed that the child could not realize the right to a new orthopedic assistive device because as an insured person it has no continuity of healthcare insurance in duration of six months on the day of receipt of the confirmation in the FUND.

Considering this response, the Ombudsman submitted a recommendation to the Fund Director and openly asked the following question: Does the regional service considers the international standard in such cases- the best interest of the child, i.e. Article 3 from the Children's Rights Convention, according to which all activities referring to the children are dominated by the child's best interests regardless of whether they are executed by the private social protection institutions, the courts, the administrative bodies or the legislator bodies?

On the other hand, he pointed out that the protection of the health of the children and the prevention of the harmful results for the life of the children should be a priority in the actions of the bodies and institutions that must apply the laws and by- laws but above all, should consider the interests of the children, especially when it is a matter of their life and health. In this context the Ombudsman reminded the Fund that it is about a child with deteriorated health condition and has respiratory problems due to the stated diagnosis and there is a founded standing point that the condition may cause serious consequences for the health of the child, as well as to be life- threatening for him/ her, if urgent measures are not taken. Due to that, he recommended for the director, according to the competences, to examine the case again considering the best interest of the child, the Fund to provide the child with the right to proper, timely and unobstructed healthcare protection, through provision of the recommended orthopedic assistive device.

At the same time, the Ombudsman motivated by a past case when due to untimely, i.e. delayed action of the body, the child with the same or similar diagnosis lost his/her life, proposed examination of the Rulebook on the Indications for the Realization of the right to orthopedic and other assistive devices in the context of respecting the principle of the child's best interest and the right of the child to enjoy the highest level of healthcare protection.

The Healthcare Insurance Fund of the RM remains to consider the legal conditions regarding the 6-month continuous healthcare insurance as unmet and gave a positive response regarding the recommendation to alter the prescriptions in order to provide healthcare protection of the children as a right secured by the Children's Rights Convention.

Education of the children in the elementary and high schools

The right to education of the child this year as well was followed by a line of violations by the competent bodies.

The Ombudsman stated difficulties and impairments of the children in the realization of the right to enrollment in the primary and secondary education, the lack of transport for students as well as class attendance in improper conditions. The occurrences of segregation of the students on ethnic grounds during the class forming is very disturbing, as well as the political involvement of the children by the principles of some middle schools as well as the religious education of the preschool children in a facility that has not been formally registered as a kinder garden.

Acting upon complaints with the purpose of protection against segregation of students from the Roma community, the Ombudsman after a surveillance of the "Arseni Jovkov" middle school and the "Saip Jusuf" middle school in Skopje, could not conclude segregation of students – Roma and their removal from the "Arseni Jovkov" middle school to middle school in Suto Orizari, considering that the relocation has been done at the request of their parents and the students themselves.

On the other hand, the Ombudsman established segregation of the Roma children in the "Goce Delcev" elementary in Stip for which he submitted a remark to the principal of the school and requested from the State Education Inspectorate to inspect the school after which the Inspectorate confirmed the accuracy of the findings within minutes.

Due to the gravity of the case, especially because the school principal instead of taking measures responded that the non Roma parents require such segregation and if this is not done, they would remove their children from the school, the Ombudsman informed the Mayor of the Stip municipality recommending to implement the measures and educational policies of the municipality to be executed with the purpose of desegregation of the education, respect of the multi- ethnicity and differences. He also recommended inclusion of the parents in order to elevate the conciseness and degree of the inter-ethnic integration and its advantages in the education and life in general.

Also, due to the sensitivity of the occurrence, the Ombudsman to the Ministry of Education and Science submitted an Opinion proposing to undertake measures and activities regarding the possible problem with the outflow of Roma students only in one school or enrolment in homogenous classes. In that direction he pointed out the Strategic Plan of the Ministry of Education and Science for 2016- 2018 and the National Strategy for non- discrimination and equality in the education, science, sport and culture which could hinder any kind of discrimination in the education.

The Mayor accepted the Recommendation of the Ombudsman and informed that on the next enrolment of students the multi ethnicity will be applied in the formation of classes. Also the Ministry for Education and Science accepted the Opinion of the Ombudsman stating that activities will be continuously taken to elevate the awareness on the importance of the education of the students and the need of integrative approach in the education process.

The Ombudsman, after receiving information from the public media that some principals of several middle schools in Prilep and Skopje the students were forced to join and support the protests of the civil initiative "for Joined Macedonia", initiated a procedure by own initiative. The recorded video material clearly shows that the motivational speech of the principal of the school in Prilep is contrary to the education of the children and the Children's Rights Convention, according to which the children should be protected against all types of manipulations and abuse and each abuse of the children, is subject to sanctioning.

The State Education Inspectorate was informed on this and requested to inspect the middle school to determine the illegal actions of the principal of the school by calling the students to participate in the protest as well as to sanction such behavior. At the same time, with a special Report he informed the minister of education and science pointing out the abuse and violation of the rights of the children contrary to the Law on Secondary Education and the Children's Rights Convention.

The State Education Inspectorate with a written correspondence only briefly notified that the conditions for a misdemeanor sanction are not in line with the Law on Secondary Education and the Minister did not respond even after several urgencies.

The Ombudsman, through the public media, condemned such actions toward the students reminding that the school as an educational institution is obliged to care for and protect the children as well as undertake preventive measures to prevent any kind of manipulations and abuse of children, including for political purposes.

According to that, when such behavior toward the children/ students comes from the responsible persons in the schools, and no measures are taken, it creates space for political and other kinds of abuse against the children which directly contributes to the negative perception of the role of the educational institutions and the influence of the teaching and responsible staff in the behavior of the students.

In another case, the Ombudsman after being informed that preschool children are being admitted in a facility that has not been registered for such activity, practicing religious rituals, b own initiative started a procedure to protect the children from being included in religious activities. In that context the Ombudsman addressed to the Ministry of Labor and Social Policy, the Ministry of Education and Science and the MOI requesting to undertake all measures to protect the rights of the children against all types of abuse, as well as inclusion of the children in religious activities or their education and practice of religious rituals contrary to the constitution, the Law on Protection of the Children and the Children's Rights Convention.

He also requested from the competent bodies to take measures to see the condition of possible existence of other facilities similar to the stated one performing religious education of the children as well as measures for responsibility of the persons who enabled, i.e. permitted this type of operation in facilities contrary to the purpose of their establishment.

Although after the taken measures none of the bodies confirmed the findings for religious education of the children in unregistered facilities, the Ombudsman pointed the need of more frequent regular and irregular controls by the competent ministries and prevention of the abuse of the children on any grounds.

The Ombudsman intervened regarding the violation of the rights of two students who were not allowed to attend school in the "Bratstvo Edinstvo" elementary in Ohrid because they wore scarves. Due to the protection of the students and their right to education, the Ombudsman addressed to the elementary school in Ohrid, the Ministry of Education and Science, the State Education Inspectorate pointing to respect the principle of prohibition of discrimination of the child and undertaking measures to immediately enable them to attend school. Also, through an notification, he informed the public that the RM Constitution and the European Convention for Human Rights envisage and permit religious freedom and freedom to express religion and according to the Children's Rights Convention the freedom to manifest the religion falls under the limitations envisaged by law and such limitations are not foreseen with the Law on Primary Education and other positive legal prescriptions. In that context he stressed that it is necessary to respect the laws and to apply the stated ratified international acts, as an integral part of the Macedonian legislation.

After the intervention of the Ombudsman, the school allowed the students to attend classes. This was confirmed by the State Education Inspectorate.

The Ombudsman acted upon several complaints due to the improper conditions for class attendance in several elementary and middle schools in Skopje, Kumanovo and Debar as well as complaints regarding the unsecured transportation of students, for which aside to the principals, he submitted a remark to the mayors on the territory of whom the schools are as well as to the Ministry of Education and Science to take all measures to provide conditions for unimpaired class attendance. In that context, he pointed out that the premises the students are in should be properly heated, lighted and equipped with inventory and teaching materials with which the children would be able to educate in well-equipped and safe schools with properly educated staff who will contribute for their quality education for which the principals in cooperation with the local self- government and the Ministry of Education and Science should continuously make efforts.

Rights to children/students with special needs

In an effort to realize and protect the rights of the children and persons with special needs, the Ombudsman in the light of the International Day of Human Rights presented the research on the inclusion of the children and young people with special needs in the secondary education in cooperation with the civil organization UNICEF in Skopje.

The Ombudsman in the research concluded that even after six years from the Ratification of the Convention of the Rights of the Persons with Disabilities, although from the Ombudsman's perspective the disability is not an obstacle in the realization of any right, in many spheres the changes are not visible for the children and persons with disabilities. In that direction, the Ombudsman concluded that the national legislation is not aligned with the Convention for the Rights of the Persons with Disabilities and the Children's Rights Convention.

Among other things, the Ombudsman requested from the Ministry of Education and Science to establish a mechanism for system identification, records and monitoring of the students with disabilities in the regular education and in that sense to provide a system of support in the education that would adapt to the determined abilities and needs of the children and young people with disabilities as well as full access to the school building, according to the international standards including the interior space as well as the proper equipment of the schools for inclusive teaching, setting standards for accessibility to the school buildings equipment and the teaching process in general.

During the reporting year, the Ombudsman monitored the actions of the competent bodies upon the requests of the civil initiative "5 to 12" regarding the realization and protection of the rights of the children and persons with disabilities. The Ombudsman to the Ministry of Labor and Social Policy, the Ministry of Health and the Ministry of Education and Science submitted an opinion on the manner of removing the stated violations and requested to review the requests from the parents of the children/ persons with disabilities and to take efficient measures to realize and protect the rights of the children/ persons with disabilities.

As a contribution toward the solution of the problems of this vulnerable category of citizens, the Ombudsman to the relevant ministries submitted his researches and reports from the conducted activities related to the children/ persons with special needs containing guidelines to improve the status and social integration of these citizens, in addition to the stated conditions in different fields.

The Ministry of Labor and Social Policy, the Ministry of Education and Science and the Ministry of Health notified the Ombudsman that they accept the remarks, i.e. recommendations of the Ombudsman for easier and unobstructed access to the rights of this vulnerable category of citizens and that they would consider them while planning future activities, both regarding the legislation and the undertaking of activities to solve the problems of the children/ persons with disabilities in the field of education, health, social protection etc.

Conclusions

- *The municipal social work centers not always act and often they do not identify the best interest of the child, its rights to personal contacts and communication with the parent with who it does not live, due to which the rights of the children are violated;*
- *The cases of improper behavior and physical and mental violence against the children in the facilities where they realize their rights (kinder garden, school, sheltering institutions, families) have become more frequent and there is also lack of will with the responsible persons for actual sanctioning of such behavior;*
- *The children whose birth has not been registered in the birth records have no access to the right to healthcare protection, education, social protection etc., and upon submitted request for additional entry in the birth records they face obstacles due to absence of system solution;*
- *The occurrence of child/minor marriages and the results of that are harmful to the child which stresses the need of multi sector cooperation for urgent solution for this problem;*
- *Instead of integration and multicultural schools some principals allow segregation of students from the Roma community;*
- *There is lack of early detection and prevention system on the child drug abuse and the professionals that work in the institutions do not recognize the risk of the drug abuse and use of other psychotropic substances;*
- *The students in the middle schools were abused for political purposes by the responsible persons in the schools, but this behavior went unpunished;*
- *The relevant ministries do not have a full overview of the forms of sheltering of preschool children which increases the risk for any type of child abuse, including the religious;*
- *There is no progress in the realization of the rights of the persons with disabilities and their inclusion in the society. There is lack of a multidisciplinary approach and inter relevant cooperation for the*

Recommendations

- *The Ministry of Labor and Social Policy in cooperation with the municipal social work centers and the social work institute should undertake measures for the systematic solution for the unobstructed and quality realization of the right to communication between the child and the parent;*
- *The Ministry of Education and Science, the State and other authorized education inspectorates as well as the social inspection within the Ministry of Labor and Social Policy should control and monitor the operation of the education and other institutions sheltering the children or educating them due to prevention of the violence against children and measures for proper sanctioning of the perpetrators;*
- *The Ministry of Justice and the Ministry of Labor and Social Policy should take Ombudsman measures to amend the Law on extra-judicial procedure and the Law on birth records in the part of entry of a person as born, in accordance with the accepted initiative of the Ombudsman;*
- *In order to act preventively and stop the further spreading of the minor/child marriages, the relevant ministries should amend the Law on Family, Criminal Code and the Law on Secondary Education, in line with the propositions of the Ombudsman;*
- *The competent bodies, central and local, in mutual cooperation should undertake measures to conduct educational policies preventing the possible outflow of students and the formation of ethnically homogenous classes in the education institutions, especially for the Roma students;*
- *Enhancement and upgrade of the drug prevention and protection system with a special attention to the protection of the children. In that context, there is need of proper and continuous education and training of the professional persons in the institutions in order to identify the use of drugs and other types of psychotropic substances with children as the adoption of a special Protocol for treatment of children-users;*

Conclusions

improvement of the access to the realization of the rights of the persons and children with disabilities in several areas.

Recommendations

- *Full application of the legal provisions for the prohibition of the abuse of children due to political or religious organization and actions in the educational and other institutions for children and sanctioning such behavior;*
- *The Government, i.e. the Ministry of Education and Science, the Ministry of Labor and Social Policy should take urgent measures to align the national legislation with the international conventions for the children and persons with disabilities in order to facilitate the accessibility in the realization of the rights of these citizens in all fields.*

HIGHER EDUCATION RIGHTS

The creation of conditions for unobstructed realization of the right to higher education is one of the priorities of the Ombudsman in the performance of his duty. In the reporting period the Ombudsman acted upon a small number of complaints for the protection of the rights from the higher education area and just as last year, most of the complaints referred to the non- payment of the funds for the preparation of master thesis and doctoral thesis by the Ministry of Education and Science. Aside to the stated, he acted upon complaints that referred to non- issuance of a certificate fort finished studies for specialist students at the Faculty of Stomatology, delay of a procedure to postpone a decision making for a request for granting a scholarship as well as the update of the procedure after submitted complaints and requests of students to be exempted from participation payment.

The Ombudsman, acting upon the complaints requesting protection of the rights of due to non- payment of funds for the preparation of masters/ doctoral thesis, for which he continuously during the year addressed to the Ministry of Education and Science requesting for the funds to be paid, considering that this right was granted to the complainants by a decision. For the stated problem, the Ombudsman informed the minister of education and science and part of the complainants realized the right and for the other part the procedures are underway.

This reporting year the ombudsman acted upon a case formed by request of special student at the Faculty of Dentistry concluding violation of the rights of the students because aside to passing the specialist exam, the student was not provided with a certificate from the faculty. The Ombudsman submitted a remark to the Dean of the aforementioned faculty within the University of "Ss' Cyril and Methodius" – Skopje with a request to issue the certificate for passed specialist exam with in conditions for the submitted for the prior settlement of a debt to the faculty. The Dean of the faculty acted upon the remark and issued the Certificate for passed specialist exam to the complainant.

Another problem for which protection was requested from the Ombudsman is due to the unfounded delay of the procedure for decision making upon requests to grant scholarship for talented students for which the was a court decision benefiting the citizen. Also, in another case, the Ministry does not decide for a longer period upon a complaint of a student for the non- recognition of the right to student scholarship which impairs him to request further protection of the rights.

The Ombudsman requested from the Ministry of Education and Science to act upon the request i.e. complaint and to decide observing the guidelines in the verdict but in spite of the several written correspondences the Ministry failed to submit a response on the measures taken due to which a special report was submitted to the minister of education and science. The procedure is underway.

Some part of the citizens requested information in the area of the higher education as a legal advice on the procedures for the realization of the rights as well as the protection before the competent bodies.

Considering the number of the submitted complaints pointing toward the inaction of the Ministry of Education and Science upon submitted requests from citizens, for which the Ombudsman started the procedure in 2015 and 2016 and continued in 2017 the Ombudsman concluded that the Ministry of Education and Science in this reporting year failed to contribute toward the overcoming or solution of the determined problems of the citizens and at the same time it obstructed the operation of the Ombudsman in the provision of efficient realization of the function regarding the protection of the constitutional and legal rights of the citizens.

Conclusions

- *The multiannual inaction of the Ministry of Education and Science upon the decisions for granting funds for master and doctoral studies, the civil rights are violated wakening the legal safety and thrust in the functioning of the institutions;*
- *The Ministry of Education and Science failed to act upon the Ombudsman's interventions obstructing the operation regarding the protection of the constitutional and legal rights of the citizens-students in higher education institutions.*

Recommendations

- *The Ministry of Education and Science should urgently take measures to pay the funds to the citizens who are master and doctoral candidates;*
- *The Ministry of Education and Science should respect the obligation deriving from the Law on Ombudsman by taking timely measures and proper action upon the interventions given by him regarding the requests of the citizens which would ensure unobstructed performance of his function.*

LABOR RELATIONS

The reporting year there has been increase of the complaints regarding the rights emerging from the labor relations. Also, there have been complaints due to lack of timely responses or decisions of competent bodies regarding the realization of the rights emerging from the labor relation.

The period after the completion of the parliamentary and local elections is very striking due to the complaints given by a portion of the complainants who complained to the deployment to lower work posts due to indicated disciplinary procedures the result of which is either termination of the work relation or a fin in duration of six months. On the other hand, due to the prohibition of the implementation of the employment procedures, except for urgent matters, and the lack of consent for provided financial funds for employment in the state administration bodies and organizations with public authorizations, the number of complaints requesting protection in executed procedures for employment in the stated bodies.

In the procedures for employment, the citizens mostly expressed dissatisfaction from the implemented procedures for fixed term employment in the elementary schools, public enterprises and institutions because they have not been selected after the announcements while

meeting the conditions or they did not receive a notification on the selected candidate. Acting upon these complaints the Ombudsman has examined in detail whether the selected candidates for fixed term employment met the conditions for the work posts in question, and continued the procedure by submitting proper remarks. The ombudsman concluded that only in one case there has been action contrary to the law because the selected candidate in the elementary school in question education and does not meet the conditions according to the Law on Primary Education. However, in the meantime, while the unsatisfied candidate was under administrative and court procedures, the candidate acquired the necessary higher education in accordance with the Normative for teachers.

Regarding the transformation of the work relation from fixed term into indefinite term employment, most often the requests of the citizens referred to this right in the education, while requesting protection due to lack of execution of these procedures by the principals, in spite of meeting the conditions to initiate such procedures. Most common, the explanation of the principals of the schools is that the teacher does not meet the conditions for transformation of their labor relation or that the submitted documentation has been returned by the other bodies (municipal commissions and the Ministry of Education and Science), after determining that for that work post there cannot be a transformation procedure for that work post. The Ombudsman determined that for the most cases, while the decision procedure is underway after the initiated procedure for transformation of the labor relation in the following school year a new fixed term employment agreement is not concluded with a teacher who has worked over three, four and five years on the same work post, disabling them to exercise the right to indefinite employment due to discontinuation of a new fixed term employment contract. Also, there were cases of given consent for transformation of the labor relation for a certain person, but the principal failed to implement it due to subjective reasons and another person is employed.

The Ombudsman considers that the right of the principal to select employment candidates meeting the conditions after the expiry of the deadline when the employment contract has been concluded on fixed term to be indisputable, but it is unacceptable when the principal abuses this right damaging the teacher who invested years of labor in the school and achieved positive results in the performance of their service. In this context it is not justified for the principal to act in such a way as to not continue the fixed term contract or is not willing to initiate a labor relation transformation procedure only due to their personal, subjective reasons. The Ombudsman, in this case, requested from the principals to reexamine the procedures of deciding to select another candidate and review the possibility of regarding the candidate who worked until them, but it is always the same response that the contract has expired and another candidate meeting the conditions has been selected. The Ombudsman deems the stated to be classic abuse of the rights emerging from the labor relation with elements of political discrimination which is sadly enabled with the legal regulation regulating the fixed term labor relations.

The Ombudsman concluded violation of the labor relation rights for employees for relation field with which has been determined that the deployment on a lower work post of six employees has been done due to incorrectly applied law and irregular and illegally implemented deployment procedure. Namely, the primary body after several months after the adopted secondary decisions did not act upon them and after the submitted remarks of the Ombudsman, he notified that the cabinet of the minister pointing that due to inaction of the primary body, the rights of the persons in question have been violated because the adopted secondary decision their deployment decisions have been nullified, but they remain on their work posts and perform tasks for which they were deployed with the annulled deployment decision. The Ombudsman pointed that the Ministry is under the obligation to implement a procedure for deployment of the stated persons according to the adopted decisions of the commission and not implement some deployment procedures by announcing interior announcement and needlessly delays the procedure by requesting opinion from the State Secondary Commission for prevention of corruption. In this case the matter was not about deployment according to the needs of the MOI for which an interior announcement has been announced, but deployment according to made decisions by a competent commission, due to which, to spare the complainants from the harmful results from the delay of the procedure for their deployment and pointed and requested action for their deployment of the complainants and requested according to the adopted decisions from the competent commission for deployment according to the legal procedure envisaged and if that is not feasible, to return the complainants on the old work posts. After a certain period, the body notified that there has been action upon the remark of the Ombudsman and measures have been taken upon

the adopted secondary decisions and another procedure has been implemented to deploy these persons and new decisions have been adopted for deployment of the complainants applying the material law entirely according the notes from the secondary body.

There have been complaints from citizens requesting interventions due to deployment with adopted obligation for which after the given remarks that without adoption of a proper act, the deployment cannot be implemented, the remarks have been accepted and the citizens were returned on their previous work posts.

regarding the complaints for interventions, after a conducted disciplinary procedure mostly based on negligent performance of the work tasks, the citizens pointed out that the foundation is not that but the affiliation to another political party different from the ruling one. The Ombudsman acting upon these complaints requested the full documentation on the implementation of the disciplinary procedure and after reviewing it and analyzing the legal regulation, he did not concluded that there has been violation of the rights of the citizens based on what they stated in the complaints.

On the other hand, the Ombudsman concluded violation of the rights of employees when initiating the disciplinary procedure due to application of legal procedures that have not been enforced, i.e. due to the application of a law not applicable for the employed in accordance with the determined status. The matter was about procedures implemented by the NU Museum of Macedonia and "Zdravko Cvetkovski" high school - Skopje.

The Ombudsman, without questioning the foundation of the adopted decisions with which the disciplinary responsibility is determined, it has been concluded that they have not got status of administrative officers, stipulated by a decision, but failed to act as a person/s who has/have the status of an administrative officer violating the rights of the complaint complainant. In addition, he pointed out that since the status has not been determined, of an administrative officer, by a decision, it cannot be acted as with administrative officer, regardless of the reasons for which the employees have not been given such decisions. As a result, he requested from the director of the institution to take measures to annul the adopted decisions for determined disciplinary sanction, as illegal and with no legal power.

In the second case, he submitted a remark that the entire procedure implemented by the school in order to impose a disciplinary sanction toward the person has been implemented in accordance with the Law on Public Officers, which ceased to exist with the adoption of the Law on Administrative Officers and as such, so ceased its application. According to that, the entire procedure executed was illegal and in that context, the decision for imposition of a disciplinary sanction is illegal and inapplicable.

The Ombudsman concluded that by acting in this manner the school violated the rights due to implementing a procedure and adopted a decision referring to a law which is not applicable for two years and as such it should not be applied in practice. The remarks were accepted, the decisions were annulled and the employees' sanctions, determined after the implemented disciplinary procedures were nullified.

This reporting year, regarding the rights in the labor relation field during the imposition of the termination of the work relation, aside to the usual complaints requesting protection due to expired employment contract or breach of the work order and discipline, complaints were submitted requesting protection due to pronounced termination of the labor relation due to non acceptance of the request for continuation of the of the employment contract up to 67 years, due to which the request was submitted after the expiry of the deadline for submission. In this direction it is characteristic that the action upon a request from an employee in a high school who instead of continuation of the contract received a decision for termination of the labor relation due to meeting the conditions for age pension with 64 years of age. Namely, although the citizen requested continuation of the contract in the ongoing year when they were supposed to be 64, not the year before, latest until 31.08.2016, when they were 63, the body estimated that the request has been submitted late and for that reason the labor relation has been terminated because the conditions for age pension have been met.

According to the Ombudsman, such actions are contrary to the provisions from the Law on Labor Relations and requested reexamination of the procedure for the adopted decision for termination of the labor relation as well as annulment in the complaint procedure before the superior body, but the remarks given by the Ombudsman was not accepted. For this case, the Ombudsman requested from the competent Labor Inspectorate to take measures to annul the

adopted decision for termination of the labor relation to meet conditions for age pension, not as illegal, but that it has been adopted early, considering that the request of the citizen has not been observed, to continue the employment contract after a submitted request for continuation of the employment agreement upon a submitted continuation request. However, the competent inspector for labor did not take measures after the request from the Ombudsman, because they considered that the high school acted within the law. Due to this action, the citizen has been advised to initiate a court dispute to protect their rights.

This reporting year the requests from the citizens for protection of the labor relation rights continued due to payment of lower salary and not paid contributions. Mostly, the requests referred to the salary higher than the salary, payment of salary with incorrect coefficient, not paid reimbursement for overtime, holiday work, severance payment for retirement, jubilee award, contribution for sick leave for more than six months. After pointing to the obligation to pay the salaries and contributions to salary, most of the remarks were accepted, and in the rest of the cases, the citizens were advised to seek protection of their rights in a court procedure.

In this direction, the protection of the rights due to lesser payment of salary compared to all bachelors in pharmacy a bachelor in pharmacy employed at the University clinic for Surgical illness pointed out that their salary is calculated according to a lower coefficient compared to their colleagues having the same status and are employed in the other healthcare institutions. This way of acting is only due to omission while adopting the Annex for amendment of the Collective Agreement for healthcare activity of the RM stating all healthcare institutions, except the university clinics.

The Ombudsman requested from the Ministry of Health to take measures to solve this matter in order to eliminate the unequal approach in the salary payment of the bachelors in pharmacy working at the university clinics and all other healthcare institutions and was informed that this omission will be solved as soon as possible by adopting the amendments in the Collective Agreement.

The Ombudsman initiated a procedure by own initiative because he determined that in the Law on Administrative Officers there is partial (not precise) legal provision in the calculation of the contribution to salary when temporary work inability is present with the administrative officer. Namely, the Law envisages that the administrative office, in case of temporary work inability has the right to salary contribution in the amount set out by law. However, the law does not precise the law this provision refers to. In an informal official conversation with employees from the finance sector from various bodies and institutions, the Ombudsman discovered that the application of the provisions from the Law on Administrative Officers leaves space for free interpretation and application and some start from what the Law on Civil Servants envisages and others calculate the salary as envisaged with the general collective agreement.

In order to equalize the settlement and application of the salary when a worker/administrative officer is temporarily disabled to work in all institutions applying the Law on Administrative Officers, the Ombudsman required from the Ministry of Information Society and administration, as proposed by the law, to consider such envisaged legal provision and act in direction of its amendment. The Ministry of Information Society and administration reported that the given remark is accepted and Article 94 from the Law on Administrative Officers is not complete and precise which may cause obstructions to the citizens in the realization of their rights and that the remarks of the Ombudsman will be taken into consideration in the initial comprehensive amendment of the Law on Administrative Officers.

Conclusions

- *The discontinuation of the fixed term employment contract and the conclusion of other contracts with other persons, instead of the previously engaged ones in the education is a classical violation by the principals. In that manner, through fixed term employments they use the effort of the teacher and after the expiry of the contract and the occurrence of the possibility to transform the labor relation into indefinite term employment, the principles conclude contracts with other persons;*
- *The deployment and disciplinary procedures are made without observance of the envisaged legal procedure damaging the employed persons;*
- *The right of the employee to continue the work contract until he is 67 is not respected and the employers adopt early decisions for termination of the labor relation due to non fulfillment of the conditions for age pension;*
- *The healthcare activity collective agreement provides for unequal salary in the RM for the bachelors in pharmacy in the healthcare institutions.*

Recommendations

- *The elementary school's principals should not abuse the institute of employment on fixed term when executing the employment procedures neglecting the right to transformation of the labor relation to indefinite term;*
- *The deployments of the employees and the implementation of the disciplinary procedures should be made exclusively according to the envisaged legal procedure and respecting the rights of the employed persons;*
- *The legal provisions should diligently apply upon submission of the requests for continuation of the employment contract up to 67 years of age;*
- *Measures should be taken to amend the Collective Agreement for healthcare activity due to establishment of equal approach in the payment of salary for all employed bachelors i pharmacy in the healthcare institutions in the RM.*

NON-DISCRIMINATION

The affirmation and upgrade of the system for implementation of the principle for protection against discrimination, has in focus to integrate all citizens in the society in order for them to feel equal and increase their trust in the authorities. In one word, the purpose is all citizens to feel equal in the actions of the institutions and none of them to be placed in unequal position in the same or similar action. This standing point is based on the concept of material equality and not only the equality before the Constitution ad law.

This reporting year, the Ombudsman marks increase of the submitted apples in the non-discrimination area and protection against harassment at the work place-mobbing, in spite of the solid Macedonian legal framework and possibility for citizens to seek and exercise protection against discrimination, before the body having exceptional competence for protection against discrimination (the Commission for Protection against discrimination).

Regarding the number of submitted complaints in this field, the conclusion of the Ombudsman for 2017 is that the citizen's complaint mostly due to the harassment at the work post-mobbing, i.e. 25% of the submitted complaints refer to this problem and after that follow the cases referring to actual discrimination based on ethnicity with 10%. Statistically taken, next are the complaints referring to discrimination in the medical field, i.e. based on the healthcare condition and the number of complaints referring to the requests of the citizens for protection and implementation of the equal representation principle, including the complaints referring to discrimination on the grounds of political affiliation and education.

The last year for the first time, three complaints were submitted referring to the speech of hatred, an act incriminated in the Criminal code which is tightly connected with the discrimination and is also a violation of the rights of the citizens. Regarding these complaints, the Ombudsman determined that they refer to spreading speech of hatred against the marginalized groups which actually are most vulnerable civil category with no systematic assistance from the state can hardly realize their rights.

The Ombudsman, in the casework of the institutions toward which he competently acts, in the cases of stated violation of the rights of the citizens he pointed to the prohibition of the performance of all forms discrimination, the prohibition of the performance of all types of discrimination, the prohibition of harassment at the work place and the need of implementation of equal and equitable representation, referring to the domestic and international regulation for the prohibition of discrimination and protection of the civil rights from all forms of endangerment. In most cases, the interventions of the Ombudsman were accepted and upon certain cases where the Ombudsman used all legal opportunities, the citizens whose rights have been violated were referred to realize them before the court.

Acting separately upon the complaints referring to protection against harassment at the work place-mobbing, as we mentioned, are most numerous, the Ombudsman concluded that most of the complaints contain background and that such behavior has been motivated by the political, ethnic, sex or other basis, which through different forms is used to harm the individual, humiliate them, degrade them or damage them psychologically. In certain complaints (cases) there are pressures manifesting by exclusion of the persons from the work process and lack of provision of basic work means, while in other cases the pressures are directed towards excessive obligations at work which do not fit the job description.

The problem to prove the existence of the harassment is really hard because in most cases it is matter of harassment caused by the managerial staff who is using the position they are in, harass the staff around them by degrading them and not giving them assignments or assigning them excessive work tasks while using mechanisms to hide the manner and procedures contributing for this violation to be directed toward the particular person.

In this direction, according to the conclusion of the Ombudsman, the inspection bodies obliged to act in this area do not act according the recommendation even by the Ombudsman, i.e. strictly implement the matter which has been legally assigned as their competence, not examining in detail the aggravated conditions.

During this year, several civil associations submitted complaints referring to the protection against discrimination on medical grounds, discrimination in the education, discrimination on the grounds of religion, sex and other legally determined grounds. Namely, the complaints referred to schoolbooks and assistive literature used in the educational process in the primary, secondary and higher education. In that context a complaint was submitted by a civil organization pointing that the authors of the schoolbook for the subject "Civil Education" for the 8th grade from the 9 grade primary education discriminate on the basis of disability, sex and religion.

As a result of findings upon the complaint and the performed analysis, the Ombudsman addressed requesting clarification for the disputable parts from the schoolbook to all competent services in the Ministry of Education and Science (MES) which initially submitted non- substantial responses and the competent services instead of analyzing the content of the schoolbook in the disputable parts and notes, they interpreted the legal procedure and manner of withdrawal of the schoolbook and quoted legal bases for this procedure which was certainly an inscentive for further action.

After the change of the government, the Ombudsman directed appropriate recommendation to the relevant minister on the manner of removal of the stated violations and requested serious examination of the contents of the disputable schoolbook and if concluded that it crosses the defined educational plans and programs it will be removed from circulation or parts of it will not be studied.

Acting upon the recommendation, a notification has been submitted that the minister for education and science formed a proper Commission which has professionally analyzed the schoolbook for the subject "Civil Education" for 8th grade after the analysis of which and a proposition a decision to withdraw the schoolbook has been adopted.

As to the submitted complaints referring to protection against discrimination, and upon a recommendation of the Ombudsman, the relevant minister formed a new Commission for pro-

fessional analysis of the schoolbooks and teaching materials used in the primary and secondary education, directed towards their harmonization with the curriculum and programme.

The Ombudsman has positively evaluated the competent services of the Faculty of Philosophy in Tetovo, where after the submitted complaint for the use of the textbooks "Psychopathology of Children and Youngsters", i.e. after the found traces of discriminatory contents toward the HIV persons and persons with non-heterosexual orientation, the competent services within the faculty in cooperation with the authors of the literature in question decide to delete certain parts of the textbooks and change the terminology in line with the modern living way, accepting the suggestions and propositions of the Ombudsman.

In context of acting upon complaints referring to discriminatory contents on different bases in textbooks and teaching materials used at the "Ss Cyril and Methodius" University in Skopje and the University of "St. Kliment Ohridski" in Bitola, the Ombudsman, respecting the autonomy of the universities in the RM directed a proper opinion to overcome the existing problem directed toward the modification of the existing Rulebook for the Organization of the publishing activity.

The Ombudsman suggested the easiest way of overcoming the problem with the with the use of literature containing discriminatory contents, after which in certain cases received a notification from both universities that this opinion has been accepted with pleasure, but only the University of "St. Kliment Ohridski" in Bitola amended the Rulebook, while the University of "Ss. Cyril and Methodius" in Skopje, after a year from the acceptance of the Ombudsman's opinion has not made any modifications.

Within the extraordinary operation of the Ombudsman in 2017, after the preparation of the draft text of the law a part was taken by a task force for the realization of the preparation of the amendments referring to the preparation of a new Law on Prevention and Protection against Discrimination within the competence of the Ministry of Labor and Social Policy. A representative from the Department for protection against discrimination participated in the Ohrid Academy on natural law invited by the Macedonian Academy of Science and Art, as well as inclusion in the training and lectures of the students from the Faculty of Law in Stip. The department for protection against discrimination and equal and equitable representation during the year was included in several projects of non- governmental organizations working in the field of protection of the marginalized groups, at which meetings gave a selfless contribution with his experience and practice.

This reporting year, the Ombudsman, along with the research on the understanding of the condition with the implementation of the principle for equal and equitable representation of the communities, executed a research of the sex and education structure of the employees in the institutions and required a table display to be submitted on the condition regarding the sex (total number and number of managerial and non-managerial work posts) and the degree of education of the employees by sex and their deployment on managerial i.e. non managerial work posts regarding their degree of education.

The Ombudsman will prepare special reports on this research and submit them to the RM Assembly.

Conclusions

- *The discrimination is becoming more frequent in our society. Its occurrence, instead of decreasing becomes more intensified in the public sector in spite of the existence of a solid legal framework for prevention and protection against discrimination;*
- *Rapid growth of complaints submitted by citizens requesting for protection against harassment at the work place, mobbing from the managerial structures in the work process;*
- *The inspection bodies obliged to act in the area of labor relation, the education and administrative operation have no capacity and knowledge on how to prevent and protect against discrimination and harassment at the work place;*
- *Textbooks and teaching materials used in the educational process in the primary, secondary and higher education contain discriminating contents referring to all discriminatory bases, especially the vulnerable and marginalized groups;*
- *The appearance of the speech of hatred toward the marginalized groups and lack of legal and institutional framework to sanction such action.*

Recommendations

- *The competent institutions on state and local level should take measures to promote, prevent and protect against discrimination through diligent application of the prescriptions, as well as measures for educational campaigns to enhance the citizens' awareness for the diligent application of the equality standards, tolerance and respect for the differences;*
- *It is necessary to implement trainings for the total management and the employees due to protection against harassment at the work post-mobbing;*
- *Measures should be taken to amend the existing regulation upon which the inspection bodies act, by expanding their competences in the field of protection against discrimination and harassment at the work place, as well as training of the inspectors to recognize discrimination i.e. mobbing;*
- *Measures should be taken in the educational process to prevent and protect against discrimination in order to provide continuous analysis of the textbooks and teaching materials used in all educational degrees of the students and college students and revise the total process of editing the literature that has educational purposes;*
- *The state should establish a monitoring, reporting and sanctioning system against the hatred speech.*

PROPERTY AND LEGAL RELATIONS

The complaints for the realization of the rights in the cadastre were most numerous in the area of property and legal relations. In that segment, the Ombudsman for certain cases, continuously concluded harmful results regarding the realization of the legitimate rights and legal interests of the citizens due to subjective and unprofessional operation of the cadastre officers. That especially refers to the cases for which the cadastre should act in accordance with enforced decisions of the Administrative or the Higher and Administrative Court.

Namely, instead of acting according the stated legal conclusions and given remarks, the cadastre acts contrary to them because confirmations are issued for several times having the same contents and explanation, as those previously annulled for which the parties had an administrative dispute.

In the same manner actions are taken upon the interventions of the Ombudsman directed toward taking measures to examine and control the legitimacy of the actions regarding certain separate case. Precisely, from the Sector for Control and within the Agency for Real Estate Ca-

dastre to the competent organizational unit, (the Cadastre Center in Skopje or a certain department for real estate cadastre throughout the country), a proper obligation is assigned on the manner of action. However, although for that purpose, ex-officio, a new case is formed and a confirmation for the rejection of the concrete request of the party is issued without exception.

The Ombudsman stated cases when the cadastre does not respect certain laws for certain cases and also disrespects the legal action deadline or fails to submit the issued confirmations to the parties within the stated deadline disabling the stated parties to protect their rights.

As to the obligation for submission of explanations, information and evidence for separate complaints, the Center for Real Estate Cadastre in Skopje, failed to observe the legal deadline and directly obstructed the operation of the Ombudsman.

Regarding the protection of the citizens on the grounds of denationalization, the citizens required interventions due to the endless delay of the procedures and existence of the mistrust toward the competent services that they would ever exercise their constitutional and legally secured right.

The Ombudsman stated that one of the main reasons for this condition is that the administrative bodies (denationalization commission within the ministry of finance and the Secondary State Commission for Decision Making in an Administrative Procedure and Work Relation Procedure) and the administrative courts (Administrative and Higher) or insufficiently communicate or do not communicate at all.

Namely, aside the fact that they have been inefficient and make low quality decisions and neglect that the main purpose is to secure the legal interests of the citizens for decades, there is an extremely poor system of procedure for submission of acts and adopted decisions for cases and the administrative courts do not use the legal competences to hold inquiries and decide on the merits for the administrative operation itself.

All of this is not only due to a serious lack of finances and staff, but also due to lack of proper mechanisms for internal control and operation organization. Because of that, an enormous time period measured in years sometimes, is wasted to submit and complete the acts and decisions and not for the actual decision making for the cases.

In fact, the Ombudsman concluded that although the Administrative court adapted a decision several years ago, for some complaints from the received explanations, information and evidence, the case along with the documentation has not been expedited to a competent commission for denationalization, which also failed to take action to secure the case.

Here from, the most common explanations in the responses of the competent bodies in the procedure for denationalization after the given remarks of the Ombudsman, are that the acts for the case are not yet delivered and it cannot be determined where they are or that all necessary evidence are still pending. As a result, actions in that direction are taken exclusively upon intervention of the Ombudsman.

The occurrence that damages the rights of the parties in the procedure is very disturbing, the commissions for denationalization instead of taking measures to update the cases and adopt a right decision and also a legal one, after ten years of administration of the procedure (during which previous administrative and court decisions were adopted) contrary to the legally prescribed rules in the administrative procedure, adopt a conclusion to separate the procedure.

Regarding the procedure for the realization of the right to privatization of a construction site owned by the state, the Ombudsman noticed that during 2017 it progressed very hard because it was solved for hardly anyone. Additional congestion of the realization of this process was caused by the fact that 2017 was electoral year due to which the procedure for privatization of construction site had to be at a standstill.

In correlation with that, from the Administration for Property and Legal Affairs and its organizational units, upon the interventions of the Ombudsman for precise cases, almost without exception responses were received that there is still no possibility to determine the actual condition, that evidence from other bodies are being provided and for privatization of a lot intended for housing in apartment buildings there are other technical problems to determine the number of separate building parts.

This procedure, regarding the realization of the rights of the parties, in addition to the omissions and limiting legal regulation, is being additionally complicated due to the forwarding

of such documents in the organizational units in the RM and as a result, the citizens are not able to review the documents from the cases or to receive any information from the bodies regarding the actions taken by them.

Conclusions

- *The Real estate cadastre Agency does not observe the decisions adopted by the*
- *Administrative and Higher Court and does not act in compliance with the expressed legal views and remarks, due to which for several times it issues confirmations with the same contents and explanation as the ones previously annulled;*
- *Inefficient actions, unjustified delay of the procedures and extremely poor system of procedure for submission of acts and adopted decisions for cases are a continuity in the operation of the bodies before which the rights of the citizens based on denationalization are realized;*
- *The state owned construction suite privatization process has been stuck and progresses very hard due to which hardly any cases have been solved during 2017.*

Recommendations

- *The Real Estate Cadastre Agency should respect the decisions adopted by the Administrative and Higher Administrative Court;*
- *Completion of all cases for the realization of the rights of the citizens based on denationalization, especially through use of the legal possibility for the administrative courts to decide meritory for the administrative operation, without returning them to re-action in the commissions for denationalization;*
- *Intensifying of the process for privatization of state owned construction site.*

URBAN PLANNING AND CONSTRUCTION

The Ombudsman this reporting year does not notice any increase of the number of complaints in the field of urbanism and construction, nor any significant changes regarding the problems faced by the citizens in this area. On the contrary, the practice of delayed action of the bodies has continued upon the citizens' requests in relation with the regulation and urbanization of the negative conditions in this sphere which in the past years created urban chaos in many regions.

Acting upon the complaints and monitoring the conditions, the Ombudsman concluded that in 2017 in spite of the low pace at which the procedures for determination of the legal status of the illegally constructed facilities progressed, still the number of the citizens whose complaints have not yet been decided upon prevails. Often, as an explanation of this condition, the competent bodies state that the number of staff is small and the technical equipment is poor and they are not satisfactory considering the amount of work.

On the other hand, the case work confirmed that the citizens cannot always timely submit the necessary documentation as well as the necessary survey elaborates. As a result, there has been a need of extension of the deadlines for submission of the necessary documentation and a new one-year term has been given to submit new requests for legalization of illegal buildings, for facilities for which the owners have not yet submitted a request, which the Ombudsman will monitor from the aspect of protection of the human dignity.

The procedures for the forcible administrative enforcement of executive administrative acts for facilities illegally constructed in the previous years, is was not at all implemented during 2017 due to restrictions envisaged in the Law on Action with the illegally constructed buildings, ac-

according to which all executive procedures are being stopped to provide them with the possibility to legalize them if they meet the conditions.

Unlike the past years, this year, with small exceptions there are not complaints with which the citizens requested more alert implementation of the administrative acts for elimination of the illegally built facilities in their vicinity.

The Ombudsman, considering the right to ownership as one of the constitutionally secured rights of the citizens, diligently and continuously acted upon complaints in which the citizens pointed toward violation by the local self-government or bodies and organizations with public authorizations. More precisely, in the procedure for protection of the rights of a citizen in case when EVN Macedonia attempts to set a metallic pillar for electricity transmission at a private construction site, where according to the detailed urban plan construction of a business facility is planned, the Ombudsman took some actions within his legal authorizations and directed a recommendation for temporary stop of the construction activities until the adoption of a court decision in order to prevent the harmful results for the citizen. At the same time, the Ombudsman also mediated directly between both parties in order to find a mutually acceptable solution. As a result of the taken measures, EVN Macedonia stopped the initiated construction activities on the private property of the citizen.

In another case, he intervened on the more agile action of the authorized urban and construction inspectors in the performance of the inspection supervision on new facilities under construction. Namely, acting upon a request of a resident of the municipality of Gostivar, the Ombudsman after the taken action determined that the municipal inspectorate adapted a decision to remove a yard fence between two lots. The ombudsman requested for temporary freeze of the procedure for enforcement until the adoption of the decision upon the complaint and also recommended to the competent secondary body to validate it due to the partially determined actual condition and falsely applied prescription. After the timely reactions of the Ombudsman, the procedure was successfully and justly finished.

Due to the implementation of the electoral processes and the changes of the managerial persons centrally and locally, there was a significant decrease and during one period freeze of the dynamics of the local self-government units in the procedures of adoption of detailed urban plans. In this context, there is remarkable case with the action of the Council of the municipality of Aerodrom which decided to put the detailed urban plan out of use without previously adopted new one. This action, according to the Ombudsman created a legal vacuum and uncertainty and mistrust with the citizens living in the region of the detailed urban plan. Aside to the stated, this condition did not enable the citizens to build or decorate the space where they reside and work in a manner envisaged by the law. According to the Ombudsman, each urban plan should be applicable until the adoption of a new one or amendment of the old. In that context, the Ombudsman recommended the Council of the municipality of Aerodrom to reexamine and change its decision pointing to the possibility to as soon as possible adopt a new urban plan aligned with the General urban plan of the City of Skopje. Due to implementation of the local elections, the total procedure was additionally delayed.

The ombudsman, this reporting year as well, received complaints from citizens regarding the violations of the rights in this area, upon which due to more efficient action, measures were taken by the regional offices of the Ombudsman and there was a timely intervention to the mayors of the municipalities as competent to handle the local urban problems.

Regarding the cooperation of the bodies with the Ombudsman, part of the local self-governments such as municipality of Chair continue the practice not to respond the requests of the Ombudsman or to meet their legal obligations with a delay.

Conclusions

- *The condition with the procedures for determination of the legal status of the Illegally constructed facilities is not satisfactory which according to the competent bodies is due to the small number of staff and technical equipment which are not proportional to the work load;*
- *The practice of delayed actions continues by the authorized urban and construction inspector in the performance of the inspection supervision of facilities under construction;*
- *The competent bodies act untimely upon the requests of the Ombudsman despite of it being their legal obligation.*

Recommendations

- *The local self- government units should be more agile in the procedures for determination of the legal status of the illegally constructed facilities in all other procedures in their competence and in the preparation process they should consider the real needs of the citizens;*
- *Measures should be taken to increase the preventive activity of the inspection services through more on site inspections to prevent the possible illegal construction activities;*
- *The cooperation between the competent bodies of the local and central government should improve with the purpose of timely and unobstructed realization of the civil rights.*

HOUSING RELATIONS

The housing area during 2017 is one of the spheres of interest of the Ombudsman in order to realize and protect the rights of the citizens deriving from the laws and the Constitution.

The state, through determination of proper legal measures and activities is obliged to provide the citizens with proper conditions for dignified living. In that context are the legal improvements creating conditions for regulating the legal status of the housing units i.e. provision of a possibility to buy the apartments owned by the state. Aside to this category if citizens, there has been an opportunity to buy the apartments given to persons with low income.

The number of 11 complaints in which the citizen's complaint to violation of the rights in the area of the housing has been very small his year as well. They, as so far, refer to the update of the procedures upon requests for purchase of state owned apartments as well as renewal of the lease agreements.

Acting upon this few complaints, the Ombudsman submitted requests in order to speed the decision making process and adopt proper acts, mostly to the Joint stock company for construction of and economy with residence and business space significant for the RM, to the Commission for Residential Affairs of the RM Government and to the sector for residential and communal affairs within the Ministry of Transport and Communications. The mentioned bodies timely responded.

During this reporting year in the RM there was no procedures of a larger scope as there were in the previous period for the award of state owned apartments of persons at social risk who influenced the number of complaints submitted to the Ombudsman. In the absence of such procedures covering a big number of citizens, the individual procedures progressed with the usual dynamics with small delays.

Conclusions

- *Even though there are legal conditions to regulate the status of the state owned apartments and the apartments for persons with low incomes and the apartments that the citizens used with now award act, the purchase procedures have not been finalized;*
- *The effectiveness and efficiency in the operation of the government commission for housing affairs and the joined stock company for construction and economy with business premises significant for the RM is still not satisfactory.*

Recommendations

- *Finalization of the process for solving the legal status of the apartments owned by the state, the apartments awarded to persons with low incomes and the apartments used with no act for granting;*
- *The procedures for the requests of the citizens for awarding an apartment to lease or purchase should be implemented with more agility by the Commission for Residential Affairs within the Government of the RM and the joined stock company for construction and economy with residential and business space significant for the state.*

ENVIRONMENT

This reporting year as opposed to the alarming condition with the ambient air pollution especially in the City of Skopje and other bigger urban centers the practice from the previous years is repeated with the small number of complaints to the Ombudsman from the environmental area.

The number of 22 submitted complaints in this area confirms the conclusion of the Ombudsman for the low ecological awareness of the citizens and the need to take measures for the realization of the recommendation of the ombudsman to provide more financial funds in the budgets for campaigns and implementation of programs for elevation of the awareness with the citizens. Aside to the stated, the reporting year did not mark efficient action to improve the conditions and create real assumptions to practice the right to healthy environment. Due to that, the capital and other urban centers (Skopje, Bitola, Tetovo) were once again among the most polluted in Europe.

The problem with the waste disposal remained unsolved this reporting year as well. Namely, not only that nothing was done more significant for the realization of the planned construction of regional wastelands, but on the contrary, the condition culminated with the improper waste disposal during the summer when the health of the citizens in the Ohrid and Struga region was endangered due to uncontrolled burning of the Struga wasteland.

The citizens feared for their health and the health of their children and instead of the competent bodies they themselves arranged to secure the wasteland from further uncontrolled burning. On the other hand, even in the period before the local elections measures were taken to clean the wasteland in Tetovo which has polluted the town and its surroundings for years now.

The analyses of the complaints submitted to the Ombudsman show that the complaints most often refer to problems which endanger their personal rights or interests as the increased level of noise in the catering, craft and industrial facilities located near the residential buildings or their place of residence. The Ombudsman, in order to protect the right of the citizens- complainants of the complaints, addressed to the State Environmental Inspectorate and the State Market Inspectorate to take measures and actions within their competence and after the performed controls and measurements he was notified that the level of noise is within the allowed limit values. Considering this condition, the Ombudsman in most of the cases did not conclude violation of rights.

According to the Ombudsman, the lack of care for the environment is disturbing and the preservation of the values and the improvement of the conditions for healthy environment, through decrease of the risks for the human life and health and discovering the harmful influence

on the environment are the primary obligations of the competent bodies, centrally and locally.

In order to provide and improve the living quality in the urban and rural environments, the principles for protection of the environment must be fully implemented as well as provision of sufficient funds to solve the long term problem with the waste disposal. Furthermore, the environmental education programs for the citizens should be intensified and measures should be taken to elevate the awareness of the citizens on the significance and the realization of the right to healthy environment.

Aside to the stated, according to the Ombudsman it is necessary for the competent bodies to take measures for more frequent and continuous inspections on site and sanctioning of each improper behavior and actions.

Conclusions

- *The engagement of the bodies and their (non) care to provide healthy and clean environment is not at the desired level. It is generally concerning that the condition of the environment is alarming in spite of it being the primary obligation and goal of the competent bodies, centrally and locally.*
- *The problem with the waste disposal has not been overcome yet, i.e. it has not been effectively solved at the state level.*
- *The inspection bodies do not take any measures to overcome the problems in this area.*

Recommendations

- *Measures should be taken to solve the problem with the air and other media pollution, by strengthening the inspections on site and imposition of proper sanctions for the polluters;*
- *Intensifying the activities of the local and central government in order to introduce a system of organized collection of waste and its disposal as well as continuous measures for proper maintenance of the wastelands, according to the determined standards;*
- *More frequent and strong control by the competent inspection bodies thereby achieving timely detection and prevention of the environmental issues.*

FINANCE AND CUSTOMS

Regarding the financial area, the multiannual trend has continued in relation with the irregularities and violation of the procedures for determination and collection of the broadcasting fee by the Macedonian radio television and the Public Revenue Office (PRO). In that direction, considering that most of the complaints are well founded and there is also continuous violation of the rights of the citizens, the Ombudsman did not conclude any improvements of the general condition in this area compared with the previous years.

Namely, the broadcasting fee burdened several members of the same family, persons exempted from its payment (social help users, persons with visual or hearing impairments to a certain extent), persons who live out of the country for several years and have evidence for that etc. for all such cases the PRO executed forcible collection of the broadcasting fee by freezing the accounts of the citizens without respecting the legal limitations and exemptions. The citizens faced extreme bureaucratic procedures and conditions so that they can take back what they have paid.

Considering this condition, the Ombudsman intervened with the MRT, so that the persons who are being burdened without foundation can be erased from the register of payers and the already issued decisions be prevented from having any legal power and inform the PRO on that. The Ombudsman also requested the PRO to withdraw the collection decisions, DE block the accounts in the business banks and refund the groundlessly collected money.

The interventions of the Ombudsman were formally accepted by MRT and PRO, but due to their lack of coordination, cooperation and timely exchange of data emerging from the update/modification of the Register of Broadcasting Fee Payers they were hard to implement.

In September 2017, with the Law amending the Law on Audio-visual and Media Services, the broadcasting fee was abolished, but it imposed the dilemma either to pay the broadcasting fee for 09.2017 and if yes, pay the full amount or proportionally.

This law does not regulate this issue and within Article 52, paragraph 4 from the RM Constitution, the laws and other prescriptions may have a reverse effect in cases favorable for the citizens.

Due to that, the Ombudsman initiated a procedure to clearly precise the obligation of the citizens, but the competent bodies did not respond properly. In fact, the PRO gave a fully improper explanation that "the broadcasting fee payment decisions for 09.2017 were prepared in 08.2017, i.e. prior to the adoption of the amendments". The Ministry of Finances pronounced itself as competent and the Ministry of Information Society and Administration as official proposer of this law, the Ombudsman did not receive any response or explanation.

Otherwise, the abolishment of the broadcasting fee only deepened the absurd situation in which the citizens are brought by the PRO to realize the right to refund of the groundlessly paid or overpaid amount. In that manner, the PRO conditioned the citizens to submit a request on a prescribed form and to pay the administrative fees amounting 300 MKD (50 MKD for the request and 250 for the decision) so that they can take back the groundlessly paid or overpaid money for broadcasting fee (for these cases when it was paid in advance for the entire year).

The Ombudsman's view is that the groundlessly collected or overpaid amount by the citizens should be refunded with no conditions and ex officio, because such condition has been caused due to fault of MRT and PRO only.

This, especially if we consider the form of the request for refund of over/incorrectly paid broadcasting fee B/PPRDT, has not been published in the "Official Gazette of the RM", but only on the web site of the POR and as a result cannot be applied and produce legal action. Regarding the content of the provisions from Article 18 paragraph 1, item 4 of the Law on Administrative Fees, fee is not paid for documents and actions in a procedure for

Refund of incorrectly paid fees. The broadcasting fee, in line with the Law on Audiovisual Media Services was categorized as public utility.

For that purpose, the Ombudsman submitted to the POR a general recommendation to act in this manner for all such cases.

It is concerning that aside to the existence of all legal conditions, the PRO does not take actions, ex officio, to refund the charged taxes in a "special tax procedure for determination of the property and property condition i.e. determination of incomes for which no tax has been determined or it has not been sufficiently regulated" which has been stopped by an enforced act. Such operation of the PRO damages the legitimate rights and immediate legal and property interests of the stakeholders because it acquired property without grounds, for which there is possibility to be returned. It is also inappropriate for the PRO to act and refer to obsolescence of the right of refund of the incorrectly charged tax because the calculation of the deadline for obsolescence envisages for it to restart from the moment of effectiveness of the case conclusion.

The Ombudsman concluded a condition of violation of the constitutional and legal rights by the PRO of a major group of citizens for who, although according enforce and executive decisions, in the enforcement procedure executed by enforcement agents, the decided amount has been paid, based on contributions for pension and disability insurance, cannot be realized because there are legal irregularities and lack of compliance with the laws.

The PRO refers to the provisions from the Law on Contributions from the Mandatory Social Insurance and the gross salary system introduced in 2009 stating that it does not permit for the contributions to be separately paid. However, despite of the omission regulated in this manner the PRO fails to take other action to overcome the problem and find proper solution for a large number of requests by the stakeholders and the Chamber of Enforcement Agents of the RM. Such condition damages the ensured citizens because they cannot realize their rights to pension or realize them to a smaller extent before the Pension and Disability Insurance Fund.

Here from, the Ombudsman submitted a recommendation to the PRO to solve all such cases immediately and with no delay and to take all necessary action (from a normative or

technical aspect) and enable practical realization of all charged financial means on the accounts of the enforcement agents referring to settlement of the obligations for pension and disability insurance on the account of the Pension and Disability Insurance Fund of the RM.

The complaints in this area, submitted due to violation of the rights of the citizens by the City of Skopje and other local self-government units the number of which was fairly small, as well as before, referred to the groundless determination and collection of the property tax, the real estate circulation tax and other taxes.

Also, the Ombudsman, this reporting year too, concluded lack of cooperation of the City of Skopje which continuously progresses for years back because there is no timely response or a response of any kind for the explanation requests, information and evidence requests the interventions and stated violations.

For the problem that progresses and transfers for a longer time period, regarding the procedure for forcible collection of the tax debt from a bank account belonging to a natural person, the Ombudsman in 2017 submitted an initiative to the RM Government to amend the Law on Tax Procedure and the Law on Property Taxes.

The substance of the initiative consist of the need to envisage provisions in accordance with which the PRO, the City of Skopje and the municipalities to prepare the decisions for forcible collection based on monetary request on the bank account belonging to that person, respecting the limitations of enforcement from Articles 130 from the Law on Tax Procedure and Article 57 from the Law on Property Taxes, when conducting enforcement to consider the dignity of the debtors and their families and make the enforcement as favorable as possible for the debtor.

That normative decision will achieve greater legal; safety in the enforcement of the orders from the bank account of the debtor who is a natural person, i.e. the debtor will be able to realize their legal rights of limitation during the enforcement from salary and other bases, the PRO and the City of Skopje and municipalities should settle their claims and the banks provide safe and efficient enforcement without damaging the rights of their depositories.

However, except the formal response received from the Ministry of Finances that "it will consider the stated remarks in the initiative and after comprehensive and full analysis will make the proper legal amendments", meanwhile nothing has been done and no action has been taken.

Conclusions

- *The interventions by the Ombudsman to remove the stated violations of the rights of the citizens by MRT and PRO although formally accepted, due to their lack of coordination, cooperation and timely exchange of data emerging from the update/ modification of the Register of Broadcasting Fee Payers, are hard to implement,*
- *The abolishment of the broadcasting fee only deepened the absurd situation in which the citizens are brought by the PRO to realize their right to refund of groundlessly charged or overpaid monetary amount,*
- *The competent bodies did not take measures to resolve the dilemma with the new legal amendments to pay the broadcasting fee for 09.2017 and if yes, fully or proportionally,*

Recommendations

- *Practical implementation of all interventions of the Ombudsman to eliminate the stated violations of the rights of the citizens in the RM by the MRT and PRO emerging from the update/ modification of the register of broadcast fee payers,*
- *The groundlessly paid or over paid amount for broadcasting fee should be returned to the citizens without any conditioning ex officio*
- *The dilemma whether the new legal amendments impose the payment for 09.2017 should be resolved and if yes, it has to be determined whether fully or proportionally,*
- *The PRO, ex officio, should continuously take measures to return the paid taxes in "a special tax procedure for examination of the property and property condition, i.e. determination of revenues for*

Conclusions

- *Despite of the fact that all legal conditions have been met, the PRO, ex officio does not take any action to refund he charged taxes "in a special tax procedure for examination of the property and property condition, i.e. determination of revenues for which no tax has been set or regulated sufficiently" which is stopped with a proper act. On the contrary rejects the citizens with the illegal explanation that their right of refund has become obsolete regarding the funds that enrich the state.*
- *Condition of violation of the constitutional and legal rights by the PRO of a larger group of citizens for who although based on enforced and executive decisions in an enforcement procedure conducted by enforcement agents have been charged with the monetary amounts on the grounds of pension and disability insurance, thy cannot realize them in practise, i.e. paid on the account of the Pension and Disability Fund explaining that there are legal omissions and disharmony of the laws,*
- *The lack of cooperation of the City of Skopje with the Ombudsman that continuously progresses for years because no response or timely response has been given regarding the elimination of the stated violations,*
- *Aside to the formal response received from the Ministry of Finances that "it shall consider the remarks in the repeated initiative of the Ombudsman to amend the Law on Tax Procedure and the Law on Property Taxes after the extensive and full analyses will make the proper legal changes" nothing has been done in the mean time.*

Recommendations

- which tax has not been determined" which has been stopped in the mean time by an enforced act by not keeping the funds to enrich on no grounds*
- *Urgent overcoming of the condition of violation of the constitutional and legal rights of the PRO of a larger group of citizens for who, although according to enforced and executive decisions, in the enforcement procedure conducted by enforcement agents have been charged with the decided monetary amounts based on contribution for pension and disability insurance, they cannot practically realize them with an explanation that there are legal omissions and disharmony of the laws,*
- *The City of Skopje should observe the imperative legal obligation to cooperate with the Ombudsman and at their request to provide all explanations, information and evidence on the findings in the complaints and take measures to implement the interventions to remove the stated violations,*
- *According to the initiative of the Ombudsman amendments should be adopted for the provisions from the Law on Tax Procedure and the Law on Property Tax.*

CONSUMER RIGHTS

Faced with everyday problems caused by improper action by the service providers- public enterprises and other companies, the citizens, in 2017 as in the years before, submitted about 300 complaints requiring intervention to protect their consumer's rights.

Most of the complaints, i.e. almost half of them, referred to the operation of the public enterprises performing communal activity such as water supply and disposal of the urban waste waters, and above all, the complaints referred to the PE Sewerage and Water Supply- Skopje (PE).

Also, it is peculiar, that it not a matter of isolated cases, but, on the contrary, the citizen's complaint to repetitive conditions.

The Ombudsman, after conducting the necessary procedure, concluded, in certain cases, that the legal rights of the complainants have been violated due to omissions and irregularities in the operation of the PE services and disrespect of the provisions from the Law on Consumer Protection, the Law on Water supply and Disposal of the Waste Waters and the Law on Obligation Relations.

Precisely, PE submitted "irregular bills" to the water supply service users, as it has been doing years back, with enormously high amounts, without adding the proper explanation for which period and without stating the legal foundation for such action. Thereby the PE demands from the user to pay for a service that has not been provided, i.e. was not used to the degree for which they are being burdened.

Also, the users excluded from the water supply system, were conditioned by the PE to pay the debt in arrears at once and fully so that they can be included once again, although part of the debt has been settled during the enforcement procedure.

According to the Ombudsman, such manner of action cannot be considered correct, honorable and justified and in accordance with the proper legal prescriptions and principles because it is abuse of the dominant position that PE has, regarding the citizens, as users of its services.

As a result, for each separate case there has been timely intervention directed to the PE and there were written and elaborated recommendations or remarks on the manner of elimination of the stated violations (withdrawal or correction of the irregular invoices, inclusion of the buildings in the water supply network without unnecessary conditioning). In order to provide accurate calculation and avoid any possibility of indebting that would damage the user of the service (such as arbitrary determined average, number of family members or neglecting the circumstance that the water measuring device was faulty, the Ombudsman requested observance of the responsibility to read the water measuring devices and to implement this mechanism as the only one in the procedure to determine the amount of water used for the month.

However, the PE did not take any measures whatsoever to implement the interventions to implement the interventions and it was always responded that there is no grounds to storn and correct the "irregular invoices", that it is necessary to settle the claims under enforcement procedure with authorized enforcement agents, in order to be included in the water supply network, that the recommendation/remark will be observed after the creation of conditions and other formal excuses.

Due to the dissatisfaction by the bill approval provided, the correction requests or the lack of the legally founded explanations for their rejection, the PE Commission for Disputable bills was also subject to the complaints submitted to the Ombudsman.

Upon these complaints, the Ombudsman established that the Commission, more often than not, adopts decisions that are not in line with the supplied evidence along with the citizens' requests, nor uses own evidence the PE disposes with.

Therefore, the Ombudsman requested from the Commission to reexamine the adopted decisions, however, it failed to act upon the given remarks for most of the cases, except for the minimal approvals it provided.

The omissions in the official records that the PE needs to keep, exposed the citizens to procedures in which they, by no fault of their own, had to prove when they have become users of services and not be encumbered with debts made by a previous user of the building. In these cases, the citizens are not enabled, due to objective reasons, to supply the necessary evidence, but it is certain that the PE should have them or provide them ex officio, of course if there are

no omissions in the operation and record keeping is timely controlled and all changes regarding the user name holder are timely entered.

For the disrespect and lack of measures, the Ombudsman after the local elections, submitted a Special Report to the new PE director informing him on the condition and requesting to take measures to overcome the stated irregularities, however, there has been no response by the end of last year.

In addition, the conclusion that the PE responds positively solely to the requests for mitigating circumstances to pay a debt through conclusion of an agreement to pay it in installments, still stands.

Regarding the services for collection and transportation of the communal waste, the citizens in the complaints mostly remarked that they are being encumbered with a service they did not use or a service provided for a building with no constant residence purposes, the quality, dynamics of the performed service, as well as examination i.e. determination of the debt in arrears.

The PE "Communal Hygiene"- Skopje, almost always justifies its claims by performing the service according to a previously determined and approved dynamics of communal waste collection and for the debts in arrears, it refers to its official records.

The Ombudsman, in the operation of this PE concluded an absurd condition because, there was no legal possibility to fully relieve them from the obligation to pay the contribution for waste collection of the citizens who do not reside in a certain building, upon their written request to be relieved from this, according to the interior criteria it solely allows for them to be relieved from 50% of the payment obligation. Aside to this, for its decisions, it does not allow any additional legal protection before other bodies, nor initiates a procedure to overcome the possible legal omissions of the law in question.

Such illogical manner of operation, from the viewpoint of the legal prescriptions to pay what is used, is disturbing and as harmful to the citizens it is unacceptable because it creates the impression that the care for the user rights is not recognizable in the PE operation, but only the collection of the fee.

In this segment, as a particular case we should stress the case with the Municipality of Mavrovo and Rostuse Council which, with a decision, determined the responsibility of the citizens to pay the fee of 600,00 MKD linear for each weekend house for the snow cleaning on the local roads and streets during the winter to the JPKD "Mavrovo" from Mavrovi Anovi.

Namely, the Ombudsman concluded that this council has no authority for such decision because there is no law that determines authority-competence of the municipalities to impose an obligation to the citizens to pay a fee for snow cleaning on the local roads and streets during winter. Aside to this, this decision, contrary to the Constitution, causes inequality among the citizens, i.e. they are being discriminated against because its provisions refer only to the owners of the weekend houses in the village of Mavrovo, and not to the persons residing in the villages of Mavrovi Anovi, Mavrovo and Rostuse and own houses.

However, after the request to withdraw such decision was denied, the Ombudsman submitted a proposal to estimate its constitutional and legal grounds to the Constitutional Court, which by an initiative from a citizen previously submitted, adopted a decision for its abolishment.

Regarding the consumer's rights referring to the electricity supply, in 2017, as the years before, the complaints submitted from persons in a vulnerable category who are in an unfavorable financial and material condition, requested intervention so that EVN Makedonija – AD Skopje will enable them to be included in the electricity distribution system or allow them pay the accrued debt on installments.

According to the interventions by the Ombudsman, these persons were directed by EVN to address the respective User Energy Centers where according to the offered mitigating conditions, a part of them concluded agreements to pay the accrued debts on installments and their homes were included in the electricity distribution system.

In addition, the Ombudsman concluded once again that EVN still has not adopted an interior general act with which all users, especially the vulnerable category members in an unfavorable financial and material condition, would be offered equal possibilities and conditions for inclusion or realization of the right to conclude an agreement to pay the debt on installments, which would create equal treatment for everyone, and not be decided by certain managers in-

dependently and selectively. Also, there are no efficient procedures for record keeping of the separate payments of the citizens for accrued debt and as a result, information on such condition of the enforcement agents conducting the enforcement, due to which the same debt is being paid double.

In the operation of the EVN services, there has not been any change or progress neither regarding the provision of the right of the citizens to receive clear, understandable, correct and precise information regarding the condition of their debts (specification by type and debt basis, status- sued or accrued, precise amount of the interests and manner of calculation, costs and their basis etc.) and their rights bad manner of protection.

Several complaints have been submitted by citizens requesting intervention for the realization of the right to compensation of damages caused by household appliances as consequence of general hazard resulting from damaged cable lines or application of cable pillars and conductors. Such requests were not accepted by the EVN almost entirely, elaborating that it is a matter of commercial service, so according the Network Rules for electricity distribution, the costs for defect removal fall on the users.

A very small number of complaints refer the services from the fixed and mobile phone operators, precisely on the dissatisfaction from the prices for the services provided, the degree of service quality, the offered agreements and obligations that the citizens are forced to accept in the agreement.

The Ombudsman, directly before the operators, requested action by the AEC with the mediation of which, a part of the citizens managed to realize the right.

Regarding the heating energy supply, there is still dissatisfaction with the excluded consumers due to indebteding with the engaged power fee (fixed part) from the heating energy supply. The rest of the complaints referred to the lack of agility in the elimination of the reported defects, the amount of the price of the service and manner of calculation as well as due to the accrued debt condition regulation.

The user record system keeping and customer care seems to be an omission in the operation of the heating energy suppliers.

Therefore, the actions directed only toward the collection of the fee without previously taken activities has brought to encumbrance of the citizen who has not been heating energy user ever.

In fact, only because he/ she has the same name and similar surname as the real user of heating energy, a citizen was sued and encumbered to pay the fee for the consumed heating energy.

After the intervention of the Ombudsman, it was concluded that an obvious error was made which is an omission in the operation of the heating energy supplier and the court, the claim has been withdrawn, however, the thorny road walked by the citizen still remains as a result of the improper and unprofessional operation.

Conclusions

- *Disrespect of the proper legal regulation, issuance of irregular bills with excessive amounts, conditioning of the citizens to fully pay the accrued debt so that they can be included again in the network, omissions in the service users record systems and lack of cooperation and respect of the interventions of the Ombudsman, conditions that repeat themselves in the PE Water Supply and Sewerage Skopje operation;*
- *The PE Communal Hygiene Skopje, instead of fully exempting them from paying the obligation to pay the waste collection con-*

Recommendations

- *Diligent application of the legal regulation in the operation of the PE Water Supply and Sewerage and other providers of communal services, termination of the practice of issuance of irregular bills and condition of the citizens to fully pay the accrued debt and cooperation and respect of the interventions of the Ombudsman;*
- *In order to provide accurate calculation and avoid any possibility of indebteding damaging the service user (as the arbitrary set average, number of family members or neglecting the circumstance that the mea-*

Conclusions

tribution, only allows the citizens who do not reside permanently in a certain building, upon their written request and according the interior criteria, to pay 50% of the total bill amount;

- The Municipality of Mavrovo and Rostuse Council caused inequality and discrimination against the citizens because without legal basis and by a Decision determined a responsibility to be executed only by the weekend houses owners in the village of Mavrovo, and not the persons residing in the villages of Mavrovi Anovi and Rostuse, to pay a compensation of 600, 00 linear for each weekend house for cleaning snow on the local roads and streets during the winter period by the JPKD "Mavrovo" from Mavrovi Anovi;
- EVN has still not adopted a general act, offering all users, and especially the ones falling under vulnerable category being in a difficult material and financial condition, equal opportunity to conclude an agreement to pay the debt on installments;
- The costumer care is unrecognizable in the operation of the service providers, irregular procedure for submission of complaints of the consumers and lack of protection before a secondary body;
- The unfavorable material condition of the citizens is the main reason for the inability to regularly settle the ongoing invoices from the previous years as well as lack of campaigns through which the citizens would be offered more acceptable conditions to settle the debts;
- The problem with the encumbering of the citizens with the contribution for engaged power (fixed part) from the heating energy fee remains systematically unresolved.

Recommendations

suring device was faulty) the PE Sewerage and Water Supply Skopje should implement application of rule the user to pay for a service to the degree it was provided;

- The user record keeping system of the PE Water Supply and Sewerage Skopje should be updated continuously, it also should be revised and the re- inclusion should be free of charge;
- Taking constant care about the users, provision of information, support and counseling and regulation of the procedure upon complaints and objections of the consumers by the public enterprises;
- The PE and EVN should conduct continuous implementation of campaigns for facilitated collection of accrued debts, conclusion of agreements for more installments and monthly amount which would correspond to the user's limits;
- Legal resolution of the problem of the citizens with encumbrance of the fee for engaged power (fixed part) from the total heating energy fee.

OTHER RIGHTS

In the other rights area, this year, the Ombudsman received 240 complaints.

Most of the complaints submitted to the Ombudsman referred to the lack of action of the bodies of the state administration upon their requests. The Ombudsman, acting upon the requested from the bodies the complaints referred to be informed on the reasons due to which they fail to take action, pointing out their responsibility to respond upon the submitted request within the legally set deadline. In that context the citizens most often reacted to the inaction of the Agency for Financial support of the Agriculture and Rural Development, expressing their dissatisfaction from the untimely action upon their requests for payment of subventions. After

the action taken by the Ombudsman, most of the complaints were positively resolved in favor of the citizens.

Furthermore, there were reactions of the citizens due to lack of response or inaction upon their requests upon their requests by the local self-government units. These complaints referred to cases with communal character and after the intervention of the Ombudsman the self-government units submitted a response to the citizens, i.e. acted upon their requests.

What is particular for this reporting year, is the large number of complaints referring to the requests for payment of the financial means from the determined damages caused by the strong storm and floods in the Skopje region in 2016. More precisely, these complaints refer to the operation of the commissions for damage estimation, as well as the payment of the respective compensation. The Ombudsman, aside to the numerous actions to examine each case separately, concluded that a significant number of cases have not yet been resolved by the competent commission within the RM Government, i.e. a large number of citizens have not received damage compensation or have not received a response to their requests for damage estimation.

Monitoring the condition, the Ombudsman concluded that there are still weaknesses in the crisis management process regarding the damages caused by the floods. More precisely, the institutions at central and local level transfer the responsibility from one to another so the citizens when requesting their rights were forced to address to several instances. Namely, the self-government units return the citizens explaining that their competence ended with the receipt of the initial requests and documents for compensation, after which the citizens address to the Court Expertise Bureau where they react to either lack of relevant responses or the amount of the determined damage compensation through the expertise. The Court Expertise Bureau refers the unsatisfied citizens to the Ministry of Finance, where after receiving a response that this Ministry only pays the orders for payment of a monetary amount for which they received a proper act by the competent body, the citizens are being referred to the Government of the RM. Furthermore, the Government forwards them to the Movable and Immovable Property Estimation Commission in the affected regions in Skopje and Tetovo which returned them explaining that it takes a longer period to act or that the cases lack some act or document. Therefore, the damaged citizens continued their rocky road in the realization of their rights, returning again to where they started in the procedure obligated to provide the documentation, despite of being already submitted.

After the government change, the composition of the Commission also changed, congesting its operation. The Ombudsman, intervening in the protection of the civil rights, was informed that the new Commission composition does not have the full documentation for the case work of the previous commission composition which for the Ombudsman is unserious response regarding such important issue related with the basic right of housing of the citizens.

In the complaints submitted by the legal entities, an authorized person or their legal representative, it was mostly pointed to the state administration bodies or the local self-government units regarding the improper application of the positive legal prescription or incorrectly concluded actual condition.

The other part of the complaints was outside the scope of the Ombudsman. However, the Ombudsman, in line with his competences did not initiate any procedures upon these complaints but always insisted on helping the complainants in a mediated manner, providing legal advice on the manner and procedure to realize their right for which intervention was requested.

Conclusions

- *The practice of a part of the bodies of the state administration and the public authorization bodies to not notify the citizens in writing on the action taken upon their requests still continues.*
- *The condition in which the citizens damaged from the floods in the Skopje region in 2016 are, who due to omissions of the state and inexistence of a system resolution for the results of the natural disasters, for over a year, make futile efforts to receive damage compensation by the competent authorities.*

Recommendations

- *The state administration bodies and the organizations with public authorizations should take timely action upon the request of the citizens submitting them the proper written response.*
- *The Government should urgently find a system resolution of the issues related to the natural disasters. A permanent body should be formed for estimation of the damages compensation for the damages caused by the natural disasters which will function efficiently and continuously.*

LOCAL SELF - GOVERNMENT

The general conditions regarding the implementation of the decentralization process in the RM and after 13 years they point that the municipalities are still dependent on the central government regarding the financial support of the areas they manage. Therefore, certain municipalities cannot themselves pay the means for the travel expenses of the students, for heating the schools nor provide proper road and communal infrastructure. Also, there are municipalities with blocked accounts and some face technical and staff problems. All of this adds to the dissatisfaction of the citizens from the quality of the public services received from the local government.

According to the Ombudsman, such condition is impacted by the insufficient transparency, accountability and responsibility of the municipalities as well as the insufficiently efficient manners in which the municipalities respond to and solve the problems, requests and expectations of the citizens.

The Ombudsman considers that in order to overcome such condition, the relation local self-government - citizen considers to be continuously upgraded in a manner that, in the process of decision making of the local government efficient and effective mechanisms should be applied to actually enable the citizens to express their opinions and contribute to the total planning and development of the areas within municipal competence. By this manner of practice of the government the confidence and cooperation between the citizens and local government will be enhanced.

In this part of the Annual Report the Ombudsman will present the conclusions on the degree of realization of the rights of the citizens before the local government, separately by areas of competence of the local self-government and according to the submitted complaints by the citizens before the six regional offices.

Urban planning and construction

The spatial planning and the adoption of general and detailed urban plans is within the competence of the local government. Although the general urban plans generally regulate and plan the space on the territory of one municipality and based on and within it the detailed urban plans are adopted, still the citizens are more interested and pay greater attention to the detailed urban land and submitted complaints in this reporting year refer solely to them. The monitoring of the condition in this area still shows that the local governments mostly realize what they planned and do not accept the requests and remarks of the citizens, obstructing their

right to influence themselves on the urban and architecture solutions on the space they live in.

Due to this condition and the formal provision of participation of the citizens in the adoption of the urban land, the citizens in a smaller number take part in this procedure and remarks in the public inquiry provide only those citizens directly affected by the plan.

This reporting year the citizens reacted to and remarked the disrespect of their requests during the adoption or delay of the procedure for adoption of the detailed urban plans.

Therefore, before the Ombudsman, there has been a complaint submitted by a citizen affected by the adoption of the Detailed Urban Plan (DUP) for an urban block in the Municipality of Kavadarci, because the traffic network envisaged with it encroaches in a cadastre lot owned by him, immediately to his building and his remarks given in the public inquiry have not been accepted by the competent commission within the municipality. During the action taken upon the complaint, the Ombudsman has been notified that the remarks by the citizen are not accepted i.e. the existing access trail is being retained because the envisaged traffic network is the sole condition providing access to the buildings for the facilities in the background. The cadastre lot in question which the citizen requested to merge with the construction lot on which the building is built has been entered with the right to ownership of the RM, with no encumbrance and limitations. The planned traffic network in the Draft DUP which is under procedure of adoption, is almost identical to the existing valid detailed urban plan from 1976. From this information, the Ombudsman concluded that this citizen was limited to dispose of his property for over 40 years due to the envisaged traffic network next to his building, more precisely although having indisputable ownership over the real estate, he cannot dispose of it, renovate it or adapt it and in fact sale. Because the citizen through the remarks in the inquiry sheet, in a public presentation of the DUP, respected the procedure according to the provisions from the Law on Spatial and Urban Planning to protect his ownership rights, he can only require court protection of his ownership right.

In another complaint, a group of citizens reacted to the initiated procedure by the municipality of Krivogastani to adopt a new urban land for the village of Slavej. In this procedure the public inquiry and the public presentation some of the residents from several populated areas covered with the urban plan put their remarks on the inquiry sheet. More precisely, the residents requested to preserve the intention of the facility which until 25 ago was used as a non-standards agriculture school, to keep the space as non-standard football school as well as the part used as pasture for kettle. In this complaint also, the Ombudsman concluded that such intentions of the facility and the space around it were envisaged with the old urban plan adopted in 1988 and has not been realized for almost 30 years. For those reasons, due to the actual changes that took place in the 30 years in question and regarding the intention of the agriculture school and the ownership of the cadastre lots, the old urban plan cannot be realized. During the preparation of the new draft urban plan, the priorities in the planning have been directed toward retention of the ownership and existing intention according the actual condition on site and this plan, according to the municipality is a foundation for development of the populated area and according the needs for normal living in rural environment respecting the standards and norms for spatial planning.

These examples once again confirm the unallowable practice of the local government that continuously and for decades do not revise the urban plans for which the Ombudsman continuously points out that this practice must stop, the local governments must respect the obligation to revise the DUP every 5 years and if they cannot be realized they should be timely changed.

The Ombudsman has received a complaint regarding the delay of the procedure for preparation and adoption of the detailed urban plan for an urban block in the municipality of Tetovo. More precisely, the procedure started about 5 years ago but the municipality has not yet adopted the urban plan. In the action, the Ombudsman determined that the preparation of the detailed urban plan has been envisaged with the Programmes for 2015, 2016 and 2017 and it has been determined that the plan preparation finances will come out of the Budget of the Municipality of Tetovo. In January 2015 the municipality submitted a DUP preparation order, and two years later, in February 2017 a request has been submitted enclosed with the necessary survey. However, the preparation of the plan has not been initiated because the municipality has still not paid the financial obligations to the preparatory of the plan. Such delay of the procedure for adoption of the DUP in the interest of a large number of citizens who impatiently expect its realization, is unacceptable for the Ombudsman. The intention of the municipality to urbanize and

humanize that urban block of the city is salute worthy, but the municipality upon initialization of the procedures must previously provide all conditions for it to end in a reasonable deadline. More precisely, such practice which is noticeable with other municipalities, at a declarative and only formal commencement of procedures for the adoption of the urban plans without providing the finances for their realization is unallowable for a local self-government which has serious strives to meet the needs and requirements of the citizens in a humanly set urban space.

The Ombudsman in this Report as well stressed the need for the local governments to take concrete activities, measures and policies in order to educate the citizens on the importance of the influence that well and professionally planned and realized urban plan after which their more active participation will be initiated in these procedures and the local governments will be more monitored and thereby restricted to prioritize the individual or commercial interest of some individuals and always the adoption of the plans will prioritize the public interest.

As to the construction area, this reporting year the citizens mostly reacted to the lack of performance of the inspection supervision by the construction inspections, delay or legality of the procedures administration for legalization of the illegally constructed buildings, for the problem with the lack of execution of the administrative acts for elimination of the illegally constructed buildings.

The authorized construction inspectors does not act with the needed agility upon the submitted reports for illegal buildings, but this year there has been progress regarding the cooperation of the construction inspections with the Ombudsman and they in almost every case acted upon the Ombudsman's requests to perform inspection. Such untimely action and unprofessional behavior often resulted in illegal construction. Therefore, in the action, upon a submitted complaint toward the construction inspection within the municipality of Gostivar, the inspection inspected upon the Ombudsman's request but upon it he found an already constructed building, i.e. no construction activities have been found. Therefore, the construction inspector referred to the envisaged in the provisions from the Law on Construction according to which the construction inspector has the right to take action solely during the construction, as well as for the building when it is being repurposed from housing into a business space and vice versa.

The untimely action of the construction inspectorate the damaged citizen by the illegal construction, which has been diligently and timely reported to the competent inspection body, is left to prove the illegitimacy of the building before the court which is an indicator of the inability of the local government to enable equality in the application of the laws and protection of their rights.

A positive example for the effective measures for prevention of an illegal building is the inspection body within the Municipality of Kocani. Namely, the Ombudsman received a complaint from concerned citizens who noted that there is illegal construction in progress on that state owned lot. In the action taken upon the complaint, the Ombudsman requested supervision over the construction and intervention of the Ombudsman as a body protecting the state owned property. While, due to blurry and groundless reasons, the Ombudsman agreed to take actions, the construction inspector acted upon the request and conducted the inspection supervisions. During the supervision he determined that the construction is illegal and obliged the investor to stop the operation and prepared administrative acts to remove the building and submitted them to the investor that followed them.

Considering such reality, where the positive examples of timely action by such construction inspectors, are very rare, the Ombudsman this year as well points the urgency the departments for inspection supervision to be enhanced with staff and material resources so that the inspection bodies can be really present on site, to conduct control supervisions and to timely intervene, thus increasing the preventive activity of the inspection affairs departments in order to prevent illegal construction works.

Regarding the complaints for legalization of the illegally constructed buildings, the Ombudsman managed to speed the procedures and protect the rights of the citizens who reacted and according to them the selective application of the Law by the local governments. However the fact that the Ombudsman managed to give some course of the procedures initiated in 2011, i.e. after 6 years, after the Intervention of the Ombudsman, the Commissions for determination of the actual situation to come on site or after 6 years conclude that the submitted documentation is not full, is an indicator that the local governments did not manage to effectively and efficiently implement the law and did not manage to realize the right to legalization of the illegal

buildings given by the law to the citizens.

The Ombudsman, for years back, remarks to and informs the RM Government and the Assembly that the procedures for legalization progress for a long period and that the lack of staff in the municipal administration administering this procedure is not a good basis for such delay.

The Ombudsman, paying special attention, continues to follow this process and requests from the local governments to take measures in the provision of a sufficient number of staff and other necessary conditions for its agile implementation and will take measures according to his authorizations to enable applicability of the present law for every citizen without discrimination regarding its application.

As to the requests of the citizens for the execution of the adopted decisions for the removal of the illegal buildings, the Ombudsman pointed that the Law must be implemented and that the adapted administrative acts for their removal by the inspections and that the adopted administrative acts for their removal do not become obsolete. The urban police or the executive departments within the municipalities, this reporting year also, as a justification for their inaction pointed the lack of legal entity selected by the Municipality that would perform those acts on the account of the illegal constructor. Also, knowingly not applying them, or applying rarely the other authorizations at their disposal, such as the submission of a criminal report against the illegal constructor. In that manner he groundlessly postpones the procedure for enforcement and leaves space for the constructor to continue with the illegal construction.

The Ombudsman reminded to the competent bodies to their obligation to respect and apply the Law on Construction and that the removal of the illegal buildings, contributes to the realization and protection of the rights of the citizens in the area of urbanism and spatial planning and provides living in urban environment. He also stressed the need for the municipal administration to timely implement the procedure for selection of legal entity which would execute the adopted administrative acts for elimination of the illegal constructions to that it would not be an obstacle for the full implementation of the adopted acts and obstruction of the rights of the citizens.

There has been a positive conclusion that this year it is noticeable that the communication of the local bides has been improved with the Ombudsman in this area. The local governments responded to the requests submitted to the Ombudsman and also the percentage of actions taken upon his recommendations is also bigger. The Ombudsman will carry on taking action to improve and enhance the cooperation, especially with the inspection services in order to understand and accept the fact that they have a professional duty to follow the law, non-selectively, non-discriminating and in the interest of the citizens.

Consumer rights

The monitoring of the condition on the degree and manner of realization of the consumers' rights of the citizens by the local governments shows that the citizens are often unsatisfied with the quality of the communal services and other public services they receive as well as regarding the priorities set by the local governments to enable conditions for better, functional and quality communal and other public services. On the other hand, the local governments point to the challenges and limitations faced in the organization and realization of the communal and other services which most often refer to lack of finances.

Considering that the regular and functional performance of the public services have great importance for the quality of life of the citizens in a local self-government, the Ombudsman continuously point out that the lack of quality of the services cannot be justified by the local government lack of finances and dependence of assistance of the central government, or the economic cost-ineffectiveness to organize communal and other public services in some populated areas where there are no permanent residents. The right to equality in the availability of timely and quality communal and other public services, the local governments should provide to all citizens in all areas covered by a local self-government.

The complaints regarding the communal and other public services submitted in the Regional Offices refer to lack of water supply or exclusion from water supply, public lighting, calculation and collection of the communal fees, attempts for collection of obsolete claims, lack of communal infrastructure.

During the actions, it has been determined that the public enterprises still practice not regulating the public services provision with prior conclusion of written agreement with the users. The Ombudsman pointed out that the conclusion of the agreement is not only a legal obligation envisaged with the Law on Communal Activities but is one of the manners to inform the users on their rights and obligations facilitating the realization and protection of their rights.

A positive example of respect of this legal obligation and the regulation of the communal services with previously concluded agreements is the action taken upon a complaint by residents in a newly populated collective building in the municipality of Radovis due to their exclusion from the water supply network. The Ombudsman concluded that the PE Plavaja Radovis notified the residents several times on their obligation to identify and conclude agreements to use the services with the PE and to pay the necessary fees in line with the Law on Communal Activities and the Law on Drinking Water Supply and Urban Water Disposal. However, sadly, only a part of the residents did such thing, while the rest did not act upon the invitations and remarks of the PE and were excluded from the water supply system. The ombudsman informed the citizens that in the precise case there is no violation of their rights by excluding them from the water supply network and pointed to their obligation to conclude an agreement and pay the fees for the provide communal service. He also pointed that if after the conclusion of the agreement they do not settle their obligations for the service provided the service provider may again stop the provision of the service in a manner set forth by the agreement.

The inexistence of urban plans for some regions in the municipalities results in obstructions or hindering the right of the citizens to be included in the water supply and sewerage network. Those are mostly parts of the cities that were not urbanized; there was no communal infrastructure due to which the facilities constructed in those regions were illegal. With the legalization process of the illegal constructions many of the buildings have acquired a legal status after which the citizens wish to be included in the water supply and sewerage network which in fact does not yet exist in those regions. In such cases, the citizens are forced to either invest themselves in the construction of the water supply line to their houses or to find solutions with the public enterprises to include them in the nearest networks, but the fee which is mostly higher due to the length of the line should be paid by the citizens. In addition, the Ombudsman when acting upon these complaints pointed the local governments to the need of urgent adoption of urban plans and construction of communal infrastructure as a sole way to make the communal services available for all citizens equally.

The citizens from the municipality of Bitola reacted to the JKP Niskogradba Bitola because they considered that they are being groundlessly encumbered with sewerage services bills for services they have not used because their buildings have not been included in the sewerage network and use skeptical pit. The Ombudsman informed the citizens that according to the Law on Drinking Water Supply and Urban Waste Waters Disposal and according to the Decision for Communal Order of the Municipality of Bitola, the service users (natural and legal persons) owning buildings in the urban city region and are not included in the sewerage network are obliged to collect the waste waters in septic pits constructed in line with the valid construction norms and rules. The septic pits cleaning and the cleaning of the filed toilets is not done by the citizens themselves, but the public enterprise for communal activities founded by the municipality or a legal or a natural person authorized by the municipality by determined standards with special vehicles – tanks, whereby sanitary and hygiene measures are being provided and after the cleaning the area around the septic pit or the field toilet has to be disinfected. Of course, this service is provided after a paid fee calculated by cube meters of consumed water, following the data obtained by the JPK Water Supply. Such service is performed after a previously concluded common agreement based on which the public enterprise cleans the septic pits free of charge once a year. The septic pit cleaning is made according the price determined by the public enterprise confirmed by the Council of the municipality of Bitola.

While providing communal services to the citizens, the public enterprises – service providers must cooperate with each other in a professional manner in the interest of the citizens.

The lack of cooperation between two public enterprises may result in violation of the right to urban and organized public environment, which is portrayed with the example in the municipality of Stip. More precisely, the Ombudsman has received a complaint by a group of citizens (residents) from a collective building who stated that due to rupture of a main sewerage pipe the cellar area of the building has been filled with mud and water after which the public area in

front of the entrance is being dug to fix the wreckage. After the repair of the sewerage pipe the building entrance access, which is a public area and walking zone has not been rendered in the previous condition and there is concrete, soil, mud and dislocated concrete tiles. The residents submitted a request to the PE "Isar" Stip, the public area in front of their building should be returned in the initial condition before the pipe ruptured. However, no action has been taken upon the request of the citizen, i.e. the public area in front of the building. The Ombudsman, acting upon the complaint requested the PE "Isar" to take the necessary measures and actions i.e. to bring the public area in a condition that is safe to be crossed and provides safe entry of the residents in the building. In its response, the public enterprise notified the Ombudsman that all actions have been taken by him, i.e. in accordance with its competence, the enterprise took all action i.e. according to its competence the enterprise located the problem and removed the defect and covered up the water pipes. However, the PE "Stipion" was competent for the planning of the public area, where the citizens should have addressed and which had to take the necessary actions and measures to render the public area back to what it was.

The Ombudsman considers such action by the public enterprises to be unacceptable and outside the aim for which they were founded, which is to provide unobstructed provision of communal services to meet the needs of the natural and legal entities. To realize such objective, their cooperation is necessary and substantial.

According to the Ombudsman, the PE "Isar" after the repair of the wreckage, was obliged to immediately inform the PE "Stipion", ex-officio, on the need to intervene on the public area around the collective building and its repair and thereby enable the citizens to unobstructed realization of their right to live in an urban environment. This is the sole manner through which the public enterprises would confirm the service orientation of the local self-government bodies in order to meet the needs of the citizens.

Aside to the stated significant number of complaints submitted on the grounds of indebtedness with communal fee for public lighting in regions where it has not been conducted, or is irregularly maintained. Based on this, complaints have been submitted by residents of the village of Smilevo, Demir Hisar, Tetovo, Bitola, Kicevo.

Acting upon these complaints, the Ombudsman pointed the need to diligently respect the provisions from the Law on Communal Activities envisaging the obligation of the local authorities to provide and maintain street lighting system. This obligation implies construction – establishment of a system for street lighting for which needs to be regularly maintained and be in operative condition as a sole condition to charge the citizens with this communal fee. For the areas where no street lighting has been installed, the Ombudsman required from the Municipal Council to adopt a decision to relieve the citizens from the obligation to pay this communal fee, but mostly, this remark was answered with the reply that the procedure to commence implementing the public lighting is about to be initiated, or that the set network of public lighting is sufficient to cover the entire populated area, due to which the charge of the communal fee is justified. In this manner, many of the local authorities groundlessly continue to charge this communal fee, even though such communal service has not been provided to the citizens. This practice must stop, i.e. the charge of this communal fee must be made solely if the communal service is used because on the contrary it means groundless collection of finances by the local authorities for which according to the legal prescriptions responsibility must be taken.

Regarding the complaints where the citizens reacted to pressures being done by the public enterprises for the charge of the claims for communal fees, several years old, the Ombudsman pointed the legal obligation for diligent observance of the provisions from the Law on Obligation Relations. According to this legal provision, when the service has been provided for the households, the claims for delivered water, heat energy, gas, become obsolete within a year from the day the dead line for their settlement expired if they have not been timely placed under a procedure for collection or a procedure before an authorized notary public.

The Ombudsman informed the citizens that they are under the legal obligation to settle the bills not older than a year and if the enterprises through an authorized notary public claim collection of the bills older than a year, he pointed to their right to submit a complaint for the decision referring to the obsolescence institute. Of course, this year too, the Ombudsman requested from the public enterprises to implement a procedure so that the accrued debts of the citizens would be erased from the records after which there has not been a reply.

The Ombudsman, as a manner to surpass or at least improve such conditions in this sphere, this time as well points to the need of efficient and effective actions of the Councils for Consumer's Protection formed within the local self-governments. Considering the competence of this Council to monitor the condition of service provision from the public services, to care for the problems that the citizens have in the use of the services from the enterprises to upgrade the employees' behavior within the service provides as well as organize public debates and other forms of public participation of the citizens at which the promotion and protection of the consumers is to be discussed, the Ombudsmen considers that its functioning should become real and not formal because it contributes toward the improvement and continued upgrade of the quality of the communal and other public services that the local authorities offer to the citizens.

Considering the aforementioned, the Ombudsman considers that the performance of the communal activities by the municipalities has still not reached the desired level of development and there is still big difference in their realization from one municipality to another. Also, some municipalities lack general acts that the municipalities may and should adopt and functioned to define and establish procedures to provide quality administrative services from the communal area.

Labor relations

This reporting period before the Regional Offices of the Ombudsman there have been requests for protection of the rights within the labor relations by employees in the primary and middle schools due to violation of the employment procedures, deployment on a work post, payment of unused portion of the annual leave, transformation of the work relation from fixed term to indefinite period employment as well as basis for mobbing due to political affiliation.

Which is characteristic period is that the Ombudsman has not received any initiative by employees in the municipal administration or public enterprises founded by the local authorities. This occurrence, according to the Ombudsman, is due to not yet present fear from the possibility for them to suffer even greater consequences by the managerial persons if they try to request protection of their labor relation rights. Such attitude of the Ombudsman is being founded on the visits of the employees in the Regional Offices, when they pointed to the problems faced, that they are under constant pressure from the managerial persons on the manner of performance of their work assignments, participation in party meetings, redeployment on lower positions, threats for disciplinary action or termination of the work agreements.

Considering that during the reporting year the Local Elections took place, the employees expecting the results, chose to be quiet instead of reveal the violations of the rights and request their protection. In all of these cases, the Ombudsman provided legal councils on how to surpass the problems they faced with and informed on the possible legal consequences that would be imposed if they act contrary to the law in the performance of the work assignments.

During the action upon the submitted complaints requesting reexamination of the legitimacy of the procedure for employment of teachers and the made selection by the elementary schools principles, the Ombudsman requested supervision by the state education inspectorate whether the selected candidates meet the legal conditions for establishment of work relation envisaged with the Law on Primary Education, the Law on Teachers and the Normative for Teaching Staff in the primary education. In the replies after the performed inspections, the State Education Inspectorate, in almost all procedures notified the Ombudsman that a candidate who does not meet the conditions for the performance of the work assignments of a teacher has been selected, due to which the selection decisions were annulled and obliged the school boards to reexamine the candidacies of the applicants who meet the legal conditions for establishment of a labor relation and provide new opinions to the principles to adopt a selection decision.

In all cases the Ombudsman submitted a remark to the principals of the elementary schools pointing to the concluded violation of the procedure for selection of teachers and requested to diligently observe the provisions from the laws directed toward the legal operation and performance of quality and professional educational activity by the school and, of course, quality education of the children that attend classes in the schools. Regarding the complaints referring to the violation of the right related with the labor relations due to nonpayment of unused annual leave, the Ombudsman concluded that the employees cannot realize this right due to their

lack of information on the procedure they themselves had to initiate. Namely, according to the provisions of the Law on Labor Relations the condition for the employee to be able to request payment of annual leave is to submit a request to the principal, while employed, to use the annual leave and not to have it allowed. If such request has been submitted to the employer, in that case the employee retains the right to seek payment of this unused annual leave at court. On the contrary, the right to payment of the unused part of the annual leave cannot be realized in a court procedure nor in any other procedure before other institutions.

The Ombudsman has received a complaint by a mother of three, employed in an elementary school in Makedonski Brod as a homeroom teacher and requested intervention to protect her right within the labor relation area and mobbing as well as political retaliation by the principle due to her transfer at a homeroom teacher work post at a regional school I a village 40 km away from the central school with no travel conditions. According to her, the redeployment has been done as a reaction of the fact that her husband rose criminal claims against the school principal and the Mayor for abuse of official duty and authorizations. Due to just and full determination of the actual condition, the Ombudsman requested performance of an irregular supervision by the state labor inspectorate in order to reexamine the procedure for redeployment by the principal. The Ombudsman requested to determine if there was another homeroom teacher residing closer to the village and meets the legal conditions to be deployed in that regional school and whether and what type of transportation is provided to the school, as well as to examine the findings for political discrimination or mobbing against the complainant of the complaint, made by the principal. At the same time, the Ombudsman requested for a written information from the principle of the school for all findings from the complaint, thereby pointing out his legal obligation to respect the constitutionally and legally secured right to equality of the citizens.

After the conducted supervision, the inspectorate informed the Ombudsman that there was no violation of the rights in the labor relations area of the complainant, especially that it is not a matter of redeployment to another work post not suitable for the teacher's education, but redeployment to another location where she would perform the assignments on which the labor relation is based and for which she has the respective education. Regarding the statements that there has been mobbing on political grounds, the inspectorate pointed out that this should be proven in a court procedure. The principal, as expected, rejected all statements referring to mobbing against the teacher and justified the redeployment with the needs of the educational process.

Because the mobbing on the work post is hard to prove, especially when it is formally and legally counseled – as in the respective case, (the redeployment is not on an improper work post, but it is a matter of a proper work post, only it is 40 km away from the teacher's place of residence), the Ombudsman counseled the complainant to initial a court procedure for psychological harassment and a court procedure in which she would demand payment of the actual transportation costs.

Regarding the complaints referring to labor relation transformation from fixed to indefinite time period employment, the Ombudsman concluded that it has been acted upon the requests of the teachers by the principals and a court procedure is conducted. In the cases where the teacher meets the conditions, the labor relation transformation ends by provision of consent for it by the Ministry of Education and Science and if such consent is not given (mostly due to the small number of classes the teacher had), the teacher continued the procedure before the competent courts. On this basis, a large number of teachers requested only legal advice, as well as under which conditions their labor relation may be transformed.

Considering this condition, the Ombudsman considers that the school boards within the schools should take more control over the manner in which the principals perform their authorizations regarding the administration of the employment procedure or teachers and take proper action and finally submit a proposal to the Mayors for their dismissal due to the illegal actions in the performance of the assignments within their competence. The lack of sanctioning for the unprofessional and illegal performance of the assignments within the competence of the principals is not to be allowed and sends negative signals in the society in general, and more precisely with the application spoil system in the teachers employment procedure results in poor education of the students.

Finances

In 2017 in line with the submitted complaints before the regional offices of the Ombudsman in this area, the citizens face encumbrance with property tax for several years back by postponing the complaint procedure and forcible collection of the tax liability.

In the complaints the citizens stated that the municipalities encumber them with property tax for five years back, i.e. all five tax decisions and the property tax decision for the ongoing years were submitted to be settled at once.

The Ombudsman, after the action taken, did not conclude illegal action by the municipal administrations and by that no violation of the civil rights. Namely, in all cases the municipalities acted according the provisions from the Law on Property Taxes referring to unreported real estate property by the citizens, according to which for a discovered, but unreported real estate property the citizens are encumbered with the property tax for five years back and the year in which the tax liability is determined, of course after the performed estimate of the unreported property. In the interest of the citizens, for better fulfillment of the tax liability, the municipalities offered payment in installments.

After the actions taken upon submitted complaints based on delay of the complaint procedures, the Ombudsman concluded unjustified delay of the implementation of the repeated action by the municipal administrations, after the adopted decisions by the secondary bodies. Mostly, the procedures were based on the real estate circulation tax, when the complaints of the citizens were accepted by the secondary body and the cases were returned to be reconsidered. However, the procedures for reconsidering the decision were delayed by the municipalities for periods much longer than the law envisages and in one complaint the Ombudsman concluded that the competent body in the municipality of Kumanovo after two years from the expiry adoption of the secondary decision did not repeat the procedure.

The Ombudsman submitted a remark to the mayors in which he pointed out the provisions of the Law on General Administrative Procedure, according to which the primary body is obliged to act upon the secondary decision without any delay, latest within 30 days from the day of receipt of the case and to adopt a new decision in a new procedure and to immediately implement the procedure and adopt a decision. The municipalities acted upon all these remarks, the repeated procedures were implemented and the citizens received the decisions.

The Ombudsman, acting upon a complaint in which the citizen pointed that the Municipality of Bitola performs forcible collection of the property tax with full freeze of the account on which the citizen receives money only based on age pension, referred to the Municipality of Bitola and requested application of the provision from Article 57 from the Law on Property Taxes. Namely, according to this provision there is an exception from the forcible collection of a tax debt to 2/3 of the personal incomes of the debtor in which the age pension based incomes are included, i.e. only 1/3 of the income can be forcibly collected. Although the Law on Taxation, the provisions of which are applicable in the forcible collection of a tax debt, not envisaging exception in the collection of the age pension debt (only the labor relation incomes are made an exception), still the Ombudsman pointed to the application of the provision stated above from the Law on Property Tax as more favorable for the citizen. The Municipality of Bitola with a written correspondence notified the Ombudsman that it shall be acted upon his request and that precise measures will be taken by communicating with the Pension and Disability Insurance Fund of the RM in order to retain 1/3 of the full pension amount.

The Ombudsman this year as well, concluded that in the performance of its financial authorizations the municipal administrations violate the rights of the citizens by lack of or selective application of the legal procedure.

The lack of finances in the municipalities and the problems to provide sustainable local budget, according to the Ombudsman is impermissible to be borne by the citizens as well as the illegal payment of finances by them.

To overcome this reality and improve the condition in this area, the Ombudsman recommended enhancing the capacities for financial management of the municipalities; the central government should provide assistance and find a mutual resolution for the financial shortcomings in the municipal budgets. Finally, the Ombudsman once again stressed the importance of the participation of the citizens in the adoption of the local budget in a manner to mutually determine the priorities enhancing the mutual thrust.

Environment

Considering the importance of the realization, respect and protection of the rights emerging from the environment area, the Ombudsman continuously monitors the condition with the realization of the rights of the citizens to a healthy environment. According to the Ombudsman, although there is raising of the awareness of the citizens for the impact of the healthy environment, still no serious measures are taken by the local authorities are taken, despite of their obligation to provide living in a healthy environment.

The civil initiatives organized protests and reacted solely against the air pollution in Bitola, Tetovo, Kicevo and Skopje requesting precise and effective measures by the local authorities. The local authorities are not in condition to take any measures due to lack of finances and take short term ineffective measures offering solutions for the realization which several years are needed (heating and gasification). The problems with the illegal wastelands faced by almost all municipalities and their impact on the environment and with that the health of the citizens did not cause serious reactions with the citizens and the local authorities made only declarative efforts and made promises to overcome these conditions.

In such condition of enormous pollution of the air and existence of illegal wastelands the fact that no complaints have been submitted upon these bases in the regional offices of the Ombudsman is astounding.

In the area of the environment, for this reporting period, the Ombudsman received only several complaints based on increased noise levels and one complaint due to storage of waste on public surface by a natural person, which is of course not the real reflection of the conditions in this area in any municipality in the Republic.

The authorized environment inspectors performed inspection supervisions and took action, upon request of the Ombudsman, based on the complaints referring to the noise caused by the independent craftsman. Where increased level of noise was detected, the inspectors obliged the entities to decrease the noise level within the allowed limits and they acted upon the adopted decisions and where no increased noise level has been detected, they notified the Ombudsman and the concerned citizens that the noise emission is within limits.

There is characteristic case of increased noise level emitting from a religious building that goes on for years back. Namely, the Ombudsman again received a complaint from citizens residing near the Church of St. Bogorodica in Bitola where they pointed out that their right to peaceful life is being violated when this religious building transmits everyday services with speakers set outside the religious building. The church situated in the center of Bitola, with speakers and very loudly transmits the service causing anxiety with the citizens from the immediate surroundings including the "Kiril I Metodij" elementary and the "Taki Daskalo" high.

The residents faced with his problem have a firm attitude that they are not against the religious propaganda, but they are against the manner in which it is done by this religious facility, by transmitting the religious service through speakers set in the church yard forcing the residents to listen to the service that lasts for some time in their homes and influences on their peace which every person has the right to enjoy in his own home. Such noisy harassment is especially disturbing during holidays in the early morning hours and the weekends. According to the residents, the transmission of the services from the church through enormous volume of the speakers their right to sleep of the children and elderly is violate as well as to all employees having the legal right to rest between two work days and weekend.

Considering the provisions from the Law on Protection against Noise in the Environment having in focus to create and enable healthy conditions of living of the citizens and protection of the environment against noise and taking measures to prevent or decrease the noise as well as the competence of the authorized inspector for environment to perform supervision of the noise sources are within the limit values of the noise levels, the Ombudsman requested immediate field inspection by the authorized inspector and measurement of the emission level of the noise emerging from the set speakers of the church during the days when it is most certain that the actual condition can be concluded (Saturday, Sunday and religious holidays). If the noise level is outside the limit values, the Ombudsman requested measures given in the mentioned Law to decrease and decrease the noise within limits given in the Decision for determination of cases and conditions considered to disturb the peace of the citizens due to noise.

In return, the Municipality of Bitola notified the Ombudsman in writing that actions will be taken upon his request and he will be informed once again on the outcomes and results from the measuring. Such information has not been submitted to the Ombudsman by the end of the reporting year due to which the procedure upon this complaint is still in progress.

Regarding the complaint against the pollution of a public surface by a natural person collecting and storing waste material on the side walk emitting unpleasant odor and caused danger of disease spreading, the communal inspector from the municipality of Strumica notified the Ombudsman that it has been acted upon his request and the stated location has been inspected. During the supervision it has been concluded that the natural entity left a greater amount of cardboard and plastic packing at a public surface (side walk), but the inspector pointed out that if the person continues to store such waste at a public space the inspection will intervene once more and more rigorous measures will be taken (initiation of a misdemeanor procedure and imposition of monetary sanction).

The Ombudsman, this reporting year as well considers that the right to a healthy environment is not provided to all citizens in the needed amount by the local authorities, especially regarding the polluted air faced by the citizens of Bitola, Tetovo, Skopje and Kicevo as well as regarding the illegal wastelands in Tetovo, Kicevo and Struga.

The Ombudsman once more stressed the need to enhance the administrative capacities at local level, provision of sufficient finances in the budgets for this purpose as a condition to provide the citizens with quality services and enable them to live in a health environment.

The local authorities need to accurately and on site implement the procedures for protection and development of the environment and finally take measures to elevate the public awareness on the need from healthy environment and mobilization of the citizens supporting the implementation of new plans and programs in this area.

CASES FROM 2017

NP no. 1180/17

The Ombudsman received a complaint from the person V.M. requesting intervention regarding the implementation of the enforcement procedure because the enforcement agent blocked her account where she realized her only income based on family pension from the Republic of Serbia.

The Ombudsman, in order to determine the actual situation addressed to the enforcement agent requesting information on the entire procedure and copies of the entire documentation.

The Ombudsman acting upon the complaint, from the submitted notification and from the case documentation concluded that the enforcement agent for some time collects all funds from the account of the complainant, despite of them being based on family pension from the Republic of Serbia (for both children of her sister who remained orphans and she is now their guardian). Although the enforcement agent was provided with the proper evidence confirming the base of income of the complainant and was told that according the provisions from the Law on Enforcement that the family pension is no subject to enforcement, he did not unblock the account and failed to act upon the remark of the Ombudsman.

Due to that, the Ombudsman publicly criticized the enforcement agent for his illegal action and referred the submitted to initiate respective court procedure before the competent court.

NP no. 187/17

After the submitted complaint by a parent due to violation of his parental rights and the rights of his child to realize personal contact with the parent the child does not live with, the Ombudsman initiated a procedure and addressed to the Social Work Center – Radovish pointing to the rights envisaged with the Convention for Children's Rights and the Law on Family. In that context, he remarked that the Center should fully examine the case and take measures to realize the right to contact with the parent the child does not live with except if the expert team does not estimate that it is against the best interest of the child.

The Municipal Social Work Center- Radovis acting upon the remark adopted a new decision regulating the manner of personal contacts maintenance between the child and the parent the child does not live with. Also, it continuously monitored the performance of the decision during the weekends, holidays and birthdays as well as during the summer break.

The Center, aside to the stated, considered also the attitudes of the parents, the age of the child, his developmental primary needs and interests and the right to maintain personal contact with the parent it does not live with, whereby the complainant realized his parental right.

NP no. 2403/17

The citizen S. O. from Bitola to the Ombudsman submitted a complaint requesting intervention in the Basic Court Skopje II- Skopje due to dissatisfaction from the delay of the procedure upon his written request for examination of the documents from the court case.

Acting upon the complaint in order to protect the rights of the complainant of the complaint, within his competences, the Ombudsman intervened in the competent court.

As a result, from the services of the Court, the respective citizen in the meantime was called to realize the right to examination of the case documents.

NP no. 328/17

A detained person submitted a complaint expressing concern for his health condition stating that it is getting worst by the day and the administration of the "Idrizovo" Penitentiary does not take any actions to refer him to a proper healthcare institution.

The Ombudsman, considering the gravity of the statements conversed with the detained person and examined his medical chart after which the director of the "Idrizovo" Penitentiary submitted a remark for realization of a specialist examination at a proper medical facility so that a medical team can determine his health condition and prescribe proper therapy, i.e. provide guidelines for father monitoring of his health condition.

The health service of the institution accepted the remark of the Ombudsman and all necessary measures were taken, i.e. the detained person underwent laboratory analysis notifying that according to the results, if there is need of further specialist examination it shall be immediately done.

NP no. 2121/17

The Ombudsman received a complaint by a parent pointing to the violation of the right to education of his child because the school in Skopje refused to enroll the student in the third grade.

The Ombudsman, acting upon the complaint and observing the Convention for the Right of the Child to Education which according the Law on elementary Education is mandatory and free of charge, submitted a remark to the school principal that such actions violates the secured right of the child to education which is impermissible with the law. Due to that he requested urgent measures to enroll the child and provide unobstructed access to the right to education. At the same time, he addressed an education inspector requesting irregular inspection supervision over the application of the laws and by-laws by the school.

Acting upon the remarks of the Ombudsman and the guidelines of the state Education Inspectorate, the school enrolled the student thus realizing his right to unobstructed elementary education.

NP no. 379/17

The citizen T.M from Skopje required intervention from the Ombudsman and stated that due to collection of debt to EVN – Macedonia the enforcement agent initiated a procedure to sale her apartment which is the only place of residence of her family the only income of which is the social help.

Considering the difficult economic condition of the complainant as well as the fact that the precise procedure may cause hard consequences for the family and their living, the Ombudsman directed a remark to the enforcement agent to implement the provision from the Law on Enforcement stating that during the enforcement procedure care must be taken not to violate the debtor's dignity and make the enforcement more favorable for the debtor in the procedure.

The enforcement agent notified the Ombudsman that in consultation with the creditor and the complainant it has been decided to pay only the main debt and alter the manner of implementation of the enforcement procedure, i.e. to allow payment of the debt in several installments.

NP no. 1267/17

The citizen Sh. S submitted a complaint for protection of the right in the area of the healthcare protection stating that for a longer time period he cannot realize his right to undergo a surgery at the Orthopedics Department within the Traumatology and Reanimation Clinic in the Emergency Center.

Acting upon this complaint, the Ombudsman concluded that I the respective case the procedure is being delayed, i.e. the citizen is not placed on the surgery schedule due to lack of medical aids that has to be installed in the patients and all surgery halls are not operational. Based on the stated, the Ombudsman pointed to the responsible persons to provide all necessary conditions and schedule the surgery.

In the context of the given remark his healthcare institution prepared a list of patients undergoing a surgery giving priority to the complainant of the complaint and he underwent the surgery, thus realizing his right to healthcare protection.

NP no. 314/17

The Ombudsman initiated a procedure for protection of the rights of a student due to imposed pedagogical measure by a high school. Namely, due to the low temperatures and lack of conditions to hold classes, the student brought a small electrical heating body in the school in order to symbolically point to the problem and catch the attention of the responsible persons to take measures to solve the problem with the cold classrooms.

The Ombudsman for this issue addressed the principal of the high school in Negotino, and reminded them on the Convention for the Rights of the Child according to which the state recognizes the right to education of the child and due to gradual realization of this right based on equal possibilities, it is necessary to take all measures to implement the school discipline in a manner in line with the human dignity. Also, he reminded that the Law on Secondary Education that determines that due to violation of the duties and lack of fulfillment of the obligations of the student pedagogical measures may be taken- written warning, warning before expulsion and expulsion from the public school, whereby the manner of imposition of such measures is closely determined by a direction adopted by the Minister.

The Ombudsman requested notification on the taken measures pointing to the respect of the legal provisions during the determination of the actual condition as well as the procedure determined with the bylaws by including the parent in the entire course of the procedure and respect of the procedure for the possible imposition of the pedagogical measures toward the students. Also, he stressed that it is certain that the bodies of the school have the right to apply certain pedagogical measures toward the students who interfere with the education process with their behavior, but is especially significant to evaluate whether a minor disciplinary measure may contribute to meet the goal of behavioral change of the student i.e. prevent the possible dissatisfaction and opposite effect of the imposed measure of the student and his school mates, especially due to the fact that other parents and students confirm that no basic conditions were provided for the normal attendance of the class in the high school.

The Ombudsman, regarding the case, requested from the State Education Inspector to perform inspection supervision and examine whether the gravity of the expressed measure is proper for the behavior of the student considering the other circumstances, especially the intention of the student and his previous behavior.

The State Education Inspectorate accepted the remark of the Ombudsman and the provided guidelines to overcome the problem and prepared a decision obliging the school to take activities to remove the shortcomings, i.e. annul the decision for the imposed pedagogical measure by observing the legal provisions and by laws.

NP no. 2957/17

The Ombudsman received a complaint by a convicted person from the "Idrizovo" Penitentiary because due to unknown reasons he was not referred to scheduled court meetings. Examining the case and the legal matter regulating this issue, the Ombudsman determined that lack of referral to the scheduled court terms the rights of the convicted person are violated which in line with the provisions from the Law on Execution of Sanctions cannot use the favors he is entitled to, considering that another procedure is being led against him before a competent court.

The Ombudsman to the "Idrizovo" penitentiary submitted a remark in order to enable the convicted person to be present at the determined court date in 2017 in the Basic Court Skopje 1- Skopje, stating that it is in the best interest of the person to finish the court procedures as soon as possible so that he can use the favors he is entitled to base on the law. In order to meet the given remark, the director of the "Idrizovo" Penitentiary took all measures to refer the convicted person to the schedule court term and it was executed at the scheduled date at the Court.

NP no. 265/17

Lj. S. and other persons, all from Skopje, submitted a complaint to the Ombudsman because the State Electoral Commission (SEC) did not pay the monetary compensation for the performed tasks for its needs within the period from 01.12.2015 to 20.01.2016.

Based on the circumstances of the case, as well as the provided explanations, information and evidence, the Ombudsman concluded that it is a matter of violation of the rights of the respective persons.

More precisely, it is certain that according to the Act Ro no. 2939/15 from the Basic Public Prosecution in Skopje, the persons – complainants of the complaint in the period from 01.12.2015 to 20.01.2016 (33 work days) they performed tasks and assignments for the needs of the State Electoral Commission for which they should be paid a proper monetary compensation.

As a result, the SEC received an opinion to take action and pay the complainants of the complaints the monetary compensation for their engagement in the respective period.

SEC, without any explanation, still does not take any actions to implement the given opinion and the procedure for the case is in progress.

NP no. 795/17

The person Sh. Dz. from Skopje submitted a complaint to the Ombudsman stating that the principal of a high school has two decisions for imposition of a fine, one in June 2016 and one in February 2017 and due to lack of performance of the obligations given by the notification for performance of the work assignments of the high school employees. He stated that he did not take the decision adopted in February 2017 when he was orally informed that he should receive a decision and it has not been handed to him because he notified the schools that he is using sick leave which was the reason for the decision not to be published. After the inspection supervision by the competent labor inspector there has been a decision ordering the school to hand the adopted decision to the complainant, but without success, and therefore it has been determined that the complainant has moved away.

From the submitted documentation along with the response, the Ombudsman determined that the complainant was handed a decision for a fine amounting 10% of the last salary within a month and due to irresponsible behavior toward the work the decision was executed without being delivered and without secondary procedure.

The Ombudsman decided that with such behavior the complainant's rights are violated i.e. because the decision was not submitted he was not familiarized with the content and the decision was executed without enabling him to complain before the higher body that could annul the adopted decision and avoid its execution.

The Ombudsman pointed that the school should act towards the refund of the funds of the complainant taken based on the adopted decision. Then the complainant should submit a decision at the address which he additionally supplied or announce the decision on the announcement board if it cannot be submitted to the complainant and the school to wait to become final so that it can act upon it. The finality of the adopted decision will depend on whether the complainant will complain or not. After the finality of the decision, the school may act toward revocation of the salary funds of the complainant.

Aside to the respective case, the Ombudsman pointed that the school should take care to diligently apply the legal provisions and apply the envisaged procedure one after another not act toward the implementation and execution of the adopted decisions as a sole manner to avoid situations of violations of the rights of the employees in the school as the case with the complainant of the complaint.

The Ombudsman received a correspondence- reply stating that the school acted upon the guidelines of the Ombudsman and that a decision enforcing a previous decision has been adopted.

NP no. 2688/17

A citizen from Skopje requested for protection of the rights from the Ombudsman before the Medical Faculty within the University of "Ss. Cyril and Methodius" because as a child without parental care he should have been exempted from paying the scholarship during the studying at the faculty, but this right was not recognized.

The Ombudsman, acting upon this case concluded that the citizen after a consultation with the Ministry of Labor and Social Policy and the Ministry of Education and Science continued the studies enrolling on a second study cycle, but in the middle of studying when he submitted a plea to the Administration of the faculty to be relieved from scholarship payment he received a decision not recognizing this right.

After the intervention of the Ombudsman, by pointing out the legal provisions and administrative procedures referring to the children without parents and parental care for the realization of the right to study without participation in the higher education, the Faculty accepted the remark and enabled the student to continue the studies with no further charge.

NP no. 2673/17

A citizen from Kicevo submitted a complaint against the Public Revenue Office- Regional Office in Kicevo due to groundless initiation of a procedure for forcible collection of a fine for a alleged traffic misdemeanor upon a decision adopted by the Basic Court Ohrid amounting 300 euro, by banning 1/3 of the salary at the company he works.

Considering that he was certain that he never made a misdemeanor nor has a court procedure before any court, after the receipt of the complaint the Ombudsman addressed to the Basic Court- Ohrid and requested information on the person the adopted decision refers to. The court responded that the decision under the given number refers to another person and by mistake of the court the id- number has been the one of the complainant of the complaint.

After the receipt of such notification from the Basic Court in Ohrid, the Ombudsman advised the Court to immediately notify the Administration to stop the enforcement of this citizen and the PRO was pointed to revoke the claim for 1/3 of the salary and to refund the funds taken. The remarks of the Ombudsman have been accepted and the groundlessly taken funds have been refunded to the complainant.

NP no. 960/17

Dz. F. and D. F. from the village of Kondovo- Skopje, due to realization of the right based on denationalization, to the Ombudsman submitted a complaint requesting intervention in the Commission for deciding upon the requests for denationalization for the Municipalities of Centar-Skopje, Gazi Baba- Skopje and Karposh Skopje with headquarters in the municipality of Centar-Skopje.

The Ombudsman, acting upon the complaint determined that the respective denationalization case cannot be found by the Commission, i.e. it has been lost.

NP no. 720/17

The Ombudsman received a complaint from S.Z. employed as medical nurse in the PHI University Clinic for Pulmonology and Allergology stating that she submitted a complaint to this clinic in order to use the annual leave for 2017 because she wanted to realize the right to pension with 62 years of age. After the submitted request she received an opinion by the manager for general and legal and technical operation according to the provisions from the Law on Labor Relations, the complainant can use the annual leave for 2017 after 01.07.201. This opinion is a result of the response she received from the Clinic by a lawyer engaged by the Clinic for legal advice.

The Ombudsman, acting upon the complaint determined that it is certain that the complainant has the right to use the annual leave considering that for the year the request refers to she still works and performs work tasks at the clinic, but wishes to terminate the labor relation in order to realize the right to pension, which does not mean that she has not acquired the right to annual leave. On the contrary, due to the work process which continued this year too, she has the right to annual leave regardless of when her work relation is to terminate.

Considering the stated, the Ombudsman determined that such action violates the right of the complainant to realize the right to annual leave for 2017 and because of that she requested to review the case again and take measures to enable her to use the annual leave before the work relation terminates because it is her right according to the Law on Labor Relations.

The body acted upon the remark of the Ombudsman and the complainant and adopted a decision to realize the right to annual leave prior to realizing the right to age pension.

NP no. 1000/17

A non-government organization submitted to the Ombudsman a complaint for the violation of the right of the students, made by the authors of the schoolbook for the subject "Civil Education" for the eighth grade from the nine grade education containing texts with discriminating content based on disability, sex, health condition and religion.

Considering the findings of the complaint and after the performed analysis, the Ombudsman addressed all services competent in the Ministry of Education and Science requesting to explain and clarify the disputable parts of the schoolbook but received partial and arbitrary responses in which the competent services, instead of examining the schoolbook content and analyzing the disputable parts and remarks, they interpreted the legal procedure and the manner of withdrawal of the schoolbook and quoted the legal bases for this procedure, which of course caused further action.

After the elections held, the Ombudsman directed a recommendation to the Minister of Education and Science on the manner of elimination of the concluded violations requesting to seriously examine the content of the disputable schoolbook and if determined that the school book does not correspond with the plans and programs, it should be excluded from use or parts of it should not be learnt.

After the submitted recommendation, the Ombudsman has been informed that a proper commission has been established which professionally analyzed the schoolbook for "Civil Education" for the eighth grade after the analysis of which there has been a proposal and a Decision to withdraw the school book has been adopted.

NP no. 1021/17

A non-governmental association has submitted a recommendation for violation of the rights and discrimination on ethnic grounds and spread of hate speech against the Roma community, through the internet issue of the "Vecer" newspaper.

Within the case work, the Ombudsman addressed the Council of Ethics in the Media in Macedonia (CEMM) which is a competent body for monitoring the conditions in the media pointing to the unprofessional behavior and the offensive tone of writing of the journalist who wrote the article.

The Ombudsman pointed that such manner of behavior contributes to the spread of stereotypes against the Roma community and also represents speech of hate and discrimination on ethnic grounds, due to which he requested proper sanctioning.

SEMM replied that after the Ombudsman's address the competent Commission of this body adopted a decision deciding that the Code of Journalists of the RM has been violated after which it obliged the internet issue of "Vecer" to announce the adopted Decision on its web page.

NP no. 1040/17

The Ombudsman received a complaint from a lawyer in Kumanovo who within a project for assistance of the marginalized communities based on status and ethnic grounds against a member of the Roma community by the administrative services in the Municipality of Kumanovo.

In the address it is stated that during the procedure for determination of a legal status of an illegal facility, the resolution of the case has been postponed without grounds and for several times, whereby the administrative officers constantly requested additional documentation from the requestor which has not been envisaged by the law, exposing the client which is social case to unnecessary expenses.

Within his actions, the Ombudsman examined the case for legalization in the Municipality of Kumanovo and after determined that all legal conditions for the resolution of this case have been met, he pointed the municipal authorities as soon as possible to resolve this case according the law.

As a result of the Ombudsman's remarks, the next day the procedure has been resolved in favor of the requestor with which her right has been realized.

NP no. 2936/17

The citizen M.F. from Skopje submitted a complaint against the Real Estate Cadastre Centar Skopje in the Real Estate Cadastre Agency because it did not act in the legally set dead line upon a decision of the Administrative Court.

The Ombudsman, after determining that the decision in question is legal and valid requested from the Sector for Control and Supervision Skopje to inspect the legitimacy of the actions taken by the Real Estate Cadastre Agency regarding the respective case.

the requirement was accepted and after the actions taken in that direction, proper guidelines were provided to act and realize the right of the complainant of the complaint.

NP no. 972/17

S. Gj. from Tetovo submitted a complaint to the Ombudsman due to irregularity in the operation of the Real Estate Cadastre Department Tetovo. The Ombudsman although from the case circumstances and the given explanations and information and evidence concluded that in the respective case for change of title (ownership) in the real estate cadastre in Tetovo is being acted subjectively, unprofessionally and outside the authorizations and in several cases there has been intervention, to the agency director, the right of the complainant has not been realized due to various excuses having only formal nature. Therefore, the procedure regarding the respective case is still underway.

NP no. 2053/17

Z.T. from Prilep submitted a complaint to the Ombudsman requesting intervention in the PE Macedonian Radio Television (MRT) for exemption from broadcasting fee payment due to indebtedness of several members from the same household.

Based on the evidence, the Ombudsman concluded that the complainant has been encumbered with broadcasting fee payment on no legal grounds.

Namely, a member of their household was already recorded as broadcasting fee payer and does not pay it.

Precisely due to that, a remark was sent to the MRT for him to be relieved from payment of the broadcasting fee, the already issued decisions on that basis not to cause any legal action and for that condition inform the Public Revenue Office. MRT accepted the remark.

NP no. 1184/17

An employee in the PEE Macedonian Forests- PE Karadzica submitted a complaint to the Ombudsman for protection against harassment at the work post-mobbing, because the director of this legal entity electively burdened the employee with work tasks not providing the main work conditions.

Due to the constant pressures and received obligations that did not fall in her work description, the complainant of the complaint addressed to the director for protection due to the pressure she had at the work post, she in spite of her competences was immediately at a work post in a storage room in Petrovec to work as a treasury officer, a post that according to the systematization act is envisaged for a person with middle education.

Within his actions, the Ombudsman advised the client which actions to take, i.e. to address to the Agency for Administration and provide medical documentation on the psychological condition in which she is. Furthermore, the Ombudsman, addressed to the legal entity from which he requested explanation of the actions taken pointing to the prohibition to perform harassment at the work post and the possibility for initiation of a court procedure against the mobbing perpetrator.

After the directed request with a remark of the Ombudsman, the complainant of the complaint was returned at the previous work post as a person with VII educational degree providing normal work conditions realizing the rights of the labor relation area.

NP no. 2491/17

A concerned parent from Tetovo, due to lack of implementation of the Decision for condition monetary compensation for education for the academic 2016/17 intended for his son, a regular student in the Tetovo grammar school requested for intervention toward the Social Work Center-Tetovo.

After the examination of the findings in the complaint, it has been concluded that in order to implement the case decision, the report on the attendance of the student in class in missing which was not submitted to the relevant ministry due to omission in the operation of the grammar school.

The Ombudsman requested from the "Kiril Pejcinovikj" School in Tetovo to align the necessary data with the competent bodies, after which all necessary data have been submitted to the Social Work Center-Tetovo.

After the intervention of the Ombudsman and the registration of the respective Report in the SPIL Programme of the Ministry of Labor and Social Policy, the conditioned compensation for education in the academic 2016/17 has been fully paid.

NP no. 129/17

S.V. from Sushica submitted a complaint requesting an intervention from the Ombudsman due to unpaid subventions for raw tobacco from the 2015 batch.

The Ombudsman addressed to the Agency for Financial Support of the Agriculture and Rural Development requesting to reexamine the case of the citizen and determine the reasons due to which the subventions have not been paid after 2 years. Also, he pointed out, that if there are no legal obstacles, the citizen should immediately receive the subventions.

The Agency notified the Ombudsman that based on the performed administrative processing of the data, the performed controls on site as well as based on the submitted data from the purchasing company for purchased quantity of tobacco from the 2015 batch, the omission has been concluded after which it determined the amount to be paid for the quantity of sold tobacco and approved the subvention payment.

The approved financial funds in the name of the subventions have been immediately paid to the submitted transaction account of the complainant of the complaint.

NP no. 2414/17

B.S. from Skopje submitted a complaint to the Ombudsman requesting intervention from the Ministry of Finances because for a longer time no action was taken upon decisions of the Administrative and Higher Administrative Court from Skopje.

During the procedure, the Ombudsman from the Ministry of Finances received a notification that they cannot adopt a decision for a new procedure because the decisions of the stated courts as well as the documents of the case have not been submitted.

Considering such condition, the Ombudsman examined the Administrative Court concluding the case decisions, along with the documents, by fault instead of submitting them to the Ministry of Finances they were submitted to the Public Revenue Office.

Upon additional intervention of the Ombudsman, the decisions and the rest of the documents, the PRO submitted them to the Ministry of Finances which decided in another procedure.

NP no. 43/17

A single mother of a child suffering from cerebral paralysis, to the Ombudsman, submitted a complaint due to irregularities in the procedure for awarding an apartment under lease by the Commission for Residential Affairs with the RM Government. Namely, the awarded apartment which is of the 4th floor without an elevator does not solve her residential issue. Due to that the complainant was advised to submit another request to substitute the apartment with another proper apartment after prior coordination with the local branch office of the Joint Stock Company for construction and disposal of residential and business space in the Republic. The complainant notified the Ombudsman that the substitution has been done with a more appropriate apartment on the ground floor and that the entire matter was successfully resolved.

NP no. 2544/17

C.T from the village of Lavci-Bitola to the Ombudsman submitted a complaint requesting intervention against the Municipality of Bitola due to violation of the right to free transportation of his daughter, a student in the "Jane Sandanski" school in Bitola because the relation no. 1 Bitola- Brusnik- Lavci- Bitola has been terminated.

After the submitted correspondence from the Municipality of Bitola and the contacts with the Mayor of the Municipality, requesting to take action to regulate the transportation of his daughter and the rest of the students for who the free transportation has terminated as a right secured by Article 41- a from the Law on Secondary Education, by the Municipality of Bitola, to the Ombudsman a letter has been submitted on 25.12.2017 stating that the new procedure for organization of free transportation for these students will take place during January 2018 envisaging the relation on Line 1 Bitola- Brusnik- Lavci- Bitola.

According to such condition, and especially due to the fact that C. T. as a parent was forced to personally pay his daughter's transportation in the period when there was none, the Ombudsman advised them to request refund of the spent funds from the Municipality of Bitola or in a court procedure before the regular courts.

NP no. 2245/17

A citizen from Bitola submitted a complaint to the Ombudsman due to lack of action by the CRS Bitola upon the decisions of the Administrative Court for recognition of the right to alien care of his mother, despite of the passed period of three years during which she passed away.

Acting upon the remark of the Ombudsman on the concluded violation of the right of the mother to timely decision upon her request for alien care and the request for immediate procedure for it, the Social Work Center adopted a Decision by which R.S. is recognized the right of care from another person calculated from 28.10.2015 until her passing away on 13.07.2017. the Center fully paid the monetary amount in arrears according to the stated decision.

NP no. 641/17

The citizen S. J. from Skopje submitted to the Ombudsman a complaint requiring intervention due to irregularities in the operation of the operator in the Communication Services Company ONE/ VIP DOO Skopje.

Acting upon the complaint and to protect the rights of the complainant, the Ombudsman from the Electronic Communications Agency requested to take action, within their authorization, to examine and control the legitimacy of the actions of the respective operator.

According to the case intervention the Electronic Communications Agency in the meantime took action after which prepared an act thereby resolving the dispute.

NP no. 2391/17

M.P. from Skopje submitted a complaint to the Ombudsman due to re- inclusion in the electrical network and provision of the right of payment of the debt in installments.

Considering the circumstances that the complainant falls under the category of vulnerable persons because he is user of social help with disrupted health condition and is in a very hard material and financial condition, the Ombudsman requested from EVN Macedonia AD-Skopje to review the case and to entitle the citizen to certain mitigating circumstances according to his requests.

EVN accepted the intervention.

NP no. 1703/17

A citizen from Gostivar submitted a complaint stating that an enforcement agent from Gostivar issued an order for enforcement for a debt based on expenses emerging from the procedures upon submitted claims although with the concluded agreements regulating the debtor- creditor relations, the EVN Macedonia AD Skopje obliged the debtor to the debtor- creditor relations, the EVN Macedonia AD Skopje obliged to relieve the debtor from these expenses.

After examining the complaint, the Ombudsman concluded that by implementing the enforcement order the rights of the complainant are being violated and he addressed to the enforcement agent and to the EVN Macedonia AD Skopje referring to the provisions from the agreements and requested withdrawal of the forcible collection request.

As a result of the conducted action, the EVN Macedonia AD Skopje revoked the request for collection of the debt based on complained claims included in the agreement and the enforcement agent stopped the enforcement procedure.

NP no. 2220/17

Due to not taking action by the PE "Sewerage and Water Supply" – Skopje and upon his request for sharing of connection device, the citizen P.P from Skopje submitted a complaint to the Ombudsman.

The Ombudsman, acting upon the complaint and based on the submitted and provided information and evidence concluded irregularities in the operation of the PE which damage the legitimate and legal interests of the complainant of the request.

Namely, in this case, it is certain that according to the case request of the P.P. person there are technical conditions to set another measuring device in the building in question and PE will not suffer any harmful effects of doing so because they will send invoices for spent water on his name and he will be obliged to pay them.

Therefore, PE "Sewerage and Water Supply" – Skopje received a remark to take action to issue a decision to separate the connection device and set another measuring device.

The remark was accepted.

NP no. 2543/17

The Ombudsman, acting upon complaints by certain complainants, upon an announced employment advert in November 2016 in the PHI Healthcare Facility Bitola, managed to protect their right to be employed.

Namely, several selected candidates could not conclude an employment contract because in the meantime the Early Parliamentary Elections were announced for 2016 for December. After their finalization, there was a legal obstacle to realize the employments due to the delay of the procedure by the Ministry of Finance for the issuance of consent for provided financial means for the fiscal 2017. The groundless delay of the procedure for consent issuance for over 10 months, created another legal obstacle for the realization of the employment by announcement of the Local Elections in October 2017.

The Ombudsman intervened toward all involved bodies that they, according to their competences have a legal obligation to take the needed action resulting in realization of the employment of these selected candidates after which the candidates have been registered as employed in the PHI Healthcare Facility Bitola on 30.12.2017 and started to perform their work assignments.

NP no. 1261/17

D.P from Skopje, to the Ombudsman submitted a complaint requesting intervention in the PE "Sewerage and Water Supply" – Skopje because he was never included in the street sewerage, and yet he was encumbered to pay the compensation for that service during certain periods.

Based on the given findings and the documentation supplied, the Ombudsman concluded that the complaint is well founded and requested the PE "Sewerage and Water Supply" – Skopje to correct the sent invoices.

The intervention has been accepted by the services of the respective PE and all invoices which included the compensation for the service which the citizen did not use were corrected.

NP no. 2906/17

A citizen from the municipality of Plasnica submitted a complaint directed toward the Administrative Court due to inaction upon his request to put an enforceability clause of the decision so that he could acquire the right to permanent help before the Ministry of Labor and Social Policy and the PI for social work- Kicevo.

After the receipt of the complaint the Ombudsman addressed to the Administrative Court by pointing the need to immediately put the enforceability clause and stop obstructing the right to the citizen. The court acted upon the remark of the Ombudsman and the complainant of the complaint received the decision with enforceability seal.

NP no. 2108/17

A citizen from Tetovo requested an intervention due to delay of a procedure upon a submitted request for privatization of an under building lot (weekend house on Popova Sapka) submitted to the Ministry of Finance-Administration for property and legal affairs-Department for primary administrative procedure-Tetovo in 2012.

After the intervention of the Ombudsman, the Administration for property and legal affairs Tetovo after the positive statement of the State Ombudsman of the RM, Tetovo region, adopted a decision for privatization of the lot which has become legitimate and the complainant realized the right for which he requested intervention.

NP no. 264/17

The person V. T. from Sveti Nikole submitted a complaint requesting protection a right in an executive procedure in which they are present in the capacity of debtor. Namely, a Notary Public Named B.N from Sveti Nikole has certified one document twice and given it twice to different enforcement agents to be implemented.

After the implementation of the executive procedure and collection of the debt in 2013, the notary public gives it to the second enforcement agent S.G. who started to collect the debt for the second time. After the intervention of the debtor, the notary public saw the mistake, revoked the request for enforcement and refunded the groundlessly collected means on the account of the enforcement agent S. Gj. However, the enforcement agent refused to refund the groundlessly collected funds because he wanted to redirect them for the collection of another debt of the complainant of the complaint.

The Ombudsman directed a written remark to the enforcement agent S. Gj for the disrespect of the Law on Enforcement and requested refund of the groundlessly collected funds stating that only if the debtor gives written consent, then the already collected funds may be redirected for settlement of the other debt.

The enforcement agent followed the remark of the Ombudsman and refunded the finances to the complainant of the complaint.

NP no. 1723/17

The Ombudsman received a complaint from M.P from Skopje, complaining to many irregularities in the procedure for determination of the legal status of a garage for which there has been an administrative act to be removed.

After examining the findings from the complaint and the documentation given, the Ombudsman concluded that the Municipality of Karpos adopted a decision denying the request for determination of the legal status of an illegitimate temporary building—a garage. This decision was based on the information that the garage was recorded as a temporary building, although in the deed it has been recorded as under building lot, if it was temporary, it should not have been recorded as a temporary building with under building lot. This is supported by the fact that same garage was subject to sale for which a legally certified contract was concluded on 13.07.1990. An administrative dispute is still in progress regarding this legal matter. Before the legal enforcement of this procedure, the construction inspector within the Municipality of Karpos adopted an early decision and orders the complainant to remove the garage. Due to these reasons, the Ombudsman requested from the Municipality of Karpos to temporary stop the enforcement until the legitimate finalization of the administrative dispute. The request has been accepted and the procedure will continue depending on the final standing of the court.

NP no. 60/17

A citizen from Struga submitted a complaint to the Ombudsman requesting intervention because the Ministry of Justice violated the complainant's rights during the examination for enforcement agents.

More precisely, the complainant of the complaint on 14.11.2016 to the Ministry of Justice, submitted a written statement with evidence for meeting the legal conditions to take the enforcement agents exam in the December session. After the examination of the submitted application and the enclosed evidence, the Ministry of Justice accepted it and he was approved to take the enforcement agents exam in the December session.

Furthermore, the complainant states that he passed the first (theory) part on 20.12.2016 and he took the second (practical) part on 27.12.2016. Considering that the second part consisted of analysis of two case studies, after the successful passing of the first study, he started with the second one, however the final generated software result of the system for the second case study, i.e. the final result after the completion of the second case study showed three correct from five questions in total.

More precisely, for one response which was selected for the generated question, the system recognized it as incorrect, although it was identical with the response the software recognized as correct which was orally confirmed by the Commission during the exam. For this the members of the commission suggested to submit an objection to the Ministry of Justice to recognize the answer as correct and he did so the same day, he submitted a written objection for the number of points for the second case study.

Acting upon the objection, the Ministry of Justice submitted a notification to the complainant in question informing him that during the examination of his electronic test for the second study they concluded that there was a technical omission in the question and was referred to reexamination for the second part of the exam (case studies) in a term for which he would be notified additionally.

The Ombudsman, acting upon the complaint addressed the Ministry of Justice requesting detailed information on the pointed findings. Unsatisfied with the answer of the Ministry of Justice on one hand and considering that there is a well-grounded suspicion that the rights of the complainant have been violated, the Ombudsman to the Government of the RM submitted an information for obstruction of the operation by the Ministry of Justice and requested proper action.

The RM Government President Office notified the Ombudsman that they have no competence in the decision making process on the result of the examination in question as well as regarding the objections of the candidates regarding the execution of the examination and that according to the needs of the Enforcement Law, the execution of the examination of enforcement agents was within the exclusive competence of the Ministry of Justice. The Ombudsman was informed that, the Government President Office will address the Ministry of Justice as soon as possible in accordance with the remarks of the Ombudsman.

The Minister of Justice, acting upon the information on the obstruction of the operation of the Ombudsman, forwarded from the RM Government, notified the Ombudsman that there is no possibility to make a correction in the system regarding the points of the candidate regarding this question, no. 3, as well as to grant the points to him, because there is no technical model to influence the system and correct the results of an already finished exam with which the candidate would pass the enforcement agents exam.

Based on such condition, and to prevent further damaging of the rights of the complainant, the Ombudsman, according to the authorizations emerging from the content of Article 34 from the Law on Ombudsman, submitted to the Government a Special Report for the disobedience of and lack of implementation of the Recommendation on the manner of elimination of the concluded violations by the Ministry of Justice.

Finally, the Ombudsman managed to protect the right of the complainant. Namely, the Ministry of Justice concluded violation of the rights of the complainant and modified the results of the enforcement agent's examination and issued a confirmation to the complainant for a passed enforcement agent exam.

NP no. 2447/17

During the local elections in October in 2017, over the phone, the Ombudsman received a complaint by the blind person T. M. from Stip requesting to realize their right to vote which was obstructed by the Electoral Board.

She explained that before the elections in 2017 she initially took training to realize her right to vote without any company, using the Braille. However, on the day of the elections she did not receive an assistive scheme for voting by the Electoral Board, and once more she voted accompanied.

The Ombudsman, in the premises of the Municipal Electoral Commission conversed with the President who stated that the schemes for the blind persons were not enclosed with the voting material. The Sate Electoral Commission delivered them late.

It has been requested from the Municipal Electoral Commission to take measures to provide the necessary schemes containing the Braille to enable the blind persons to realize the right to secret ballot in the second electoral cycle.

The Ombudsman's request has been acted upon and on the day of the elections the complainant of the complaint as well as the rest of the blind persons realized their right to secret ballot without company.

NP no. 1508/17

The Ombudsman received a complaint from a citizen pointing out findings for groundless indebteding with a debt for spent water by the Vodovod Bitola.

Acting upon the complaint, the Ombudsman took actions toward the Vodovod Bitola and the Basic Court Bitola in order to provide data and evidence for the possibly complained water bills or to receive an information that the debt in arrears which the Vodovod Bitola claim has already become obsolete.

After all actions, the Ombudsman managed to prove that for the debt in arrears there have been timely court procedures, after which he pointed to the enterprise that the recoded debt has become obsolete and cannot be claimed from the citizen and requested deletion of this debt from their records. Vodovod accepted this remark of the Ombudsman and notified him in writing that the citizen as a user of water in Vodovod Bitola has no debt, except for the amount for the last received bill.

Because Vodovod this time did not respond on its actions upon the request of the Ombudsman to delete the obsolete debt from the records, the Ombudsman advised the citizen that if he is being indebted in the water bill further, he is not liable to pay it.

NP no. 2655/17

The citizen J. V. from Lipkovo submitted a complaint with findings that the PHI "Healthcare Facility" Kumanovo, has issued, after proper medical examinations, to his son a medical certificate for driver's examination which he lost. Due to that the complainant of the complaint addressed to the healthcare institution requesting issuance of a transcript of the same document and was informed that it shall be done in two days. However, when the complainants of the complaint went to take the transcript they received a response that such thing cannot be done and a new medical certificate needs to be issued, instead of the transcript of the old one and that they should pay 1600 MKD for this service. When they asked why this was necessary, to issue a new certificate and not a transcript, they did not receive any response and requested for an intervention from the Ombudsman.

After the actions taken, the Ombudsman concluded that this facility does not act the same not only with the son of the complainant of the complaint, but with all citizens, i.e., for the lost medical certificates no transcript is provided- for which the tariff price is 500 MKD, but requires 1600 MKD for a new certificate.

The Ombudsman submitted a remark to the institution pointing that such action not only violates the rights of the citizens, but the institution acts contrary to the law because for each original document issued by the body at the request of the client, the body is obliged to issue a transcript of the same document, following the price envisaged in the tariff list, which in this case is 500 MKD.

The remark of the Ombudsman has been accepted and B.V has immediately received the requested transcript of the medical certificate.

NP no. 1713/17

The father of a convicted person residing in the Prison of Tetovo- Tetovo Penitentiary addressed to the Ombudsman with a complaint and due to the deteriorated health condition of his son, he requested for him to be sent to control and specialist examinations.

After the receipt of the complaint, the Ombudsman examined and conversed with the convicted person concluding that his requests have not received any action such as control examinations and performance of clinical and diagnostic monitoring after the surgery performed.

After this, the Ombudsman pointed to the prison doctor and prison administration that it is necessary to realize these examinations and monitor the healthcare condition of the convicted person and prevent or avoid the unfavorable aggravating of the healthcare condition.

The Ombudsman's intervention was accepted, controls have been performed as well as specialist examination and proper therapy has been given.

NP no. 1673/17

The citizen S.J. from Skopje to the Ombudsman submitted a complaint pointing to the unfounded block of his bank account by the Public Revenue Office - regional Office Skopje.

The Ombudsman, considering the indisputable fact that the respective citizen uses social help addressed to the PRO requesting to unblock his account and return the groundlessly charged monetary funds.

According to the case intervention, the PRO notified the Ombudsman that action has been taken upon the request by adopting decisions stopping the initiated procedure for forcible collection of the broadcasting fee and that the respective bank received written correspondence for unblocking/ withdrawal of the decisions for forcible collection.

NP no. 1504/17

The Ombudsman received a complaint by a citizen from Bitola requesting intervention from the Ombudsman toward the Birth Records Department in Bitola due to violation of the right of her child to be entered in the birth records with data on its birth father.

Acting upon the complaint, the Ombudsman concluded that the body applies only Article 50 from the Law on Family where the term of 300 days after the termination of the marriage has been at as a period within the spouse will be considered the child's father.

Considering all information and evidence gathered in the procedure, the Ombudsman to the Department submitted an opinion that the body should not strictly follow only this provision from the Law while deciding upon the request of the parent, but it should consider each finding in each separate evidence and then with in evidence together, and the body will conclude a condition in which there are no legal reasons to refuse the request of the mother to enter her child in the birth records with data on its birth father. For the benefit of the stated and to protect the rights of the infant, the Ombudsman pointed the body to its legal obligation to fully respect and apply the UN Convention on the Rights of the Children as well as other declarations, recommendations and conclusions adopted regarding the civil registration and issuance of papers, especially the Zagreb Declaration for civil registration and documentation in the countries from South East Europe from 2011, the Conclusions of the Executive Committee of the UN from 2013, the Conclusions from the regional conference for access to civil registration and documentation of the countries from South East Europe adopted in Podgorica in 2013.

The Birth Records Department of Bitola responded that the body will not act upon the given Opinion of the Ombudsman and the entry of child in the birth records has been done based on Article 50 from the Law on Family.

In such situation, as the only legal resource that the complainant may use to protect her parental rights and the right of the child to be entered in the birth records with its birth parents is to dispute the paternity of her former husband entered in the birth record as a father of the child born outside the marriage, for which she was advised.

NP no. 191/17

The Ombudsman received a complaint from M.K. from Kumanovo who is a user of age pension stating that with a Decision of the Administrative Court, the State Commission for Deciding in Secondary Procedure and Labor Relation Procedure in a Secondary Degree adopted a Decision from 12.02.2016 with which the complaint of the complainant is being granted and the case is being returned to be examined and decided upon before the primary body. However, after the expiry of the 12-month period, the primary body has not yet adopted a decision in the repeated procedure.

Acting upon the complaint, the Ombudsman submitted a remark to the Pension and Disability Insurance Fund- Kumanovo pointing that it is impermissible for the procedure for adoption of a decision in the repeated procedure to last 12 months and requested observance of the legal deadlines for adoption of a primary decision, directed toward full application of the legal obligation to enable the citizens to realize their rights in quick, cost effective and legal procedures.

The Pension and Disability Insurance Fund acted upon the remark of the Ombudsman and in only a few days implemented the repeated procedure and adopted a new decision.

NP no. 2443/17

The Ombudsman received a complaint by the person Z.V. who requested intervention in an enforcement procedure due to block of the transaction account although the complainant supplied evidence that he realizes income based on salary and that 1/3 of it is being stopped by another enforcement agent.

Due to determination of the actual condition, the Ombudsman requested from the enforcement agent to take measures and action regarding the procedure and submit a copy of all documents.

Acting upon the complainant's complaint, the Ombudsman determined irregularities in the implementation of the enforcement procedure and due to that the enforcement agent submitted a written correspondence-Remark to remove the concluded violations and requested correct application of the Law on Enforcement. The Enforcement agent acted upon the remark of the Ombudsman and DE blocked the account of the complainant of the complaint and the enforcement procedure was continued by order to stop 1/3 of the debtor's salary and submitted it to the employer to be implemented.

NP no. 1202/17, NP no.1281/17, NP no.1352/17, NP no.1353/17, NP no.1715/17, NP no.1771/17, NP no.1812/17 and NP no.1879/17

The Regional Office of the Ombudsman received several complaints and intervention was requested from the Institution due to the received claims by legal entities proposing issuance of payment order from the Basic Court in Strumica referring to the unpaid invoices and bills from 2005 to 2009.

The complainants of the complaints requested protection from the Ombudsman due to violation of their rights for court procedures administration within reasonable period because in the claims, submitted as copies; it is requested to pay the debts older than 10 years without notifying them during this period that such debts exist. If these claims and payment orders are adopted, the citizens would have to pay enormous amounts for expenses and interests, no through fault of their own, but by fault of the courts that did not update the procedures in years. Due to the long period passed, the citizens did not store the invoices to prove the claims are groundless.

All complainants of the complaints were counseled by the Ombudsman to immediately submit objections due to the obsolescence of the debt according the Law on Obligation Relations.

From the performed examination of the cases- claims with a proposition to issue payment orders, the Ombudsman concluded that after the submitted the claims, there is a long, 5 to 10 years period during which the court did not take any action whatsoever. Upon the realized official visits of the Basic Court Strumica the President of the court was pointed to the violation of the rights of the citizens by the Ombudsman, regarding the principle of litigation within reasonable period, obsolescence of the claims and cost effectiveness of the procedure. The President of the court pointed that upon the directions given by the Supreme Court of the RM, the cases were deployed for operation of the judges and it actions will be taken within the law.

The end result of these procedures was favorable for the citizens because most of the claims with a proposition for issuance of a payment order were revoked and the rest were ended by the Court which considered the submitted objections from the citizens and finished them as groundless or obsolete claims.

NP no. 897/17

The citizen D. S. From Ohrid submitted a complaint to the Ombudsman pointing to an illegitimate encumbrance with property tax.

In line with the intervention by the Ombudsman, the respective authorities of the City of Skopje examined the official records of the Cadastre Agency and concluded that the citizen does not own the apartment for which he is to pay the property tax. Considering this condition, the City of Skopje revoked the tax decisions for a 9-year period issued in the name of the complainant in question.

NP no. 1020/17

D. T from Skopje submitted a complaint to the Ombudsman referring to the inability of the complainant to realize his right to be issued a statement from the detailed urban plan because the Council of the Municipality of Aerodrom decided to put the detailed urban plan out of force without previously adopting a new one.

The Ombudsman determined that by the non-issuance of the requested statement from the detailed urban plan the right to the complainant and all citizens is being violated, who as well as him are not able to realize this right and cannot build nor plan the space they live in in a manner envisaged by law. This legal vacuum creates insecurity and mistrust in the legal system of all citizens from the region covered with the detailed urban plan, by not giving the opportunity to construct on or plan the space they live in in a manner as set by the law. Each urban plan should be enforced until the adoption of a new one or the amendment of the existing one, i.e. there is no legal opportunity for an urban plan to be put out of force. In that context, a recommendation was directed to the Council of the Municipality of Aerodrom to examine and change its decision or to as soon as possible adopt a new detailed urban plan consolidated with the General urban plan of the City of Skopje, but due to implementation of local elections, the full procedure is being additionally delayed and at this moment the adoption of the new plan is in its final stage.

NP no. 192/17

After the received information through the media that a child with special needs- a student in the "Hristijal Todorovski – Karposh" Elementary in the village of Dragomance, walks every day for 15 km from the village of Vragoturce to the regional school in the village of Pelince, the Ombudsman, initiated a procedure upon own initiative.

After the received consent from the father of the student to initiate the procedure, the Ombudsman took several actions within his competence after which he concluded that this student and two more children from the same village are not provided with free transportation to school and back, which is a right secured according the provisions from the Law on Primary Education. The lack of transportation is due to the location of the village and absence of road infrastructure because of what the transportation is only feasible by field vehicle. The legal entity- the transporter, selected by the Municipality of Staro Nagorichane to transport the students does not have such vehicle. As a solution to this problem, the Mayor offered the parents of the student to accommodate her at a boarding school in the village of Dragomance, but this proposition was refused because their daughter is a child with impaired vision and mental disability and cannot look after itself. The only solution, according to the parents is to provide them with a residence in the village of Dragomance or Staro Nagoricane where the entire family would live, because these are locations for which there is transportation provided.

Considering such condition, the Ombudsman as a manner to eliminate the obstructed right of the student, to the Mayor of the Municipality of Staro Nagoricane submitted a remark pointing the need of immediate and proper measures toward the selected transporter in order to fully respect the provisions of the concluded agreement to provide and perform transportation of students and the children from the village of Vragoturce. Also, he pointed the need to contact with a PE for residence and business premises significant for the RM so that if there is free residential space in the municipality, to be given for use of the family.

In return, the Mayor notified the Ombudsman that the transporter, as a manner of fulfillment of the obligation to perform transportation agreed with the parents of the student to pay a proper amount of money for all work days in the school year and the parents will provide the transportation themselves. Regarding the remark for the provision of a residential space for all family in the Municipality of Staro Nagoricane, by the official persons from the PE for residential and business premises significant for the RM has already visited the family and is making efforts to provide them with a residence.

PROMOTION OF THE HUMAN RIGHTS AND FREEDOMS (PROJECT COOPERATION)



In the reporting year, the Ombudsman continued to work to promote his competences, realizing his mission as a protector of the human rights and freedoms in the country.

During 2017, with the support of the Commissariat for Refugees of the OUN- Office in Skopje, the Institution continued to implement the project "Improvement of the System for Legal Protection regarding the Asylum and Naturalization", as a result of the Memorandum of Cooperation signed with the UNHCR office in 2015. The project had in objective to improve the legal protection system for the asylum seekers and to facilitate the naturalization and integration process of the Kosovo refugees in order to provide more efficient protection of the individual rights secured by the Constitution, the national legislation and the international conventions.

For the needs of the NPM and the realization of the envisaged project activities, aside to the already engaged members of the team, one more person was engaged. Within the project a total of 30 visits were performed to both of the transit centers "Vinojug" and "Tabanovce", the Center for Foreign Citizens Gazi Baba and the Asylum Seekers Center "Vizbegovo" as well as the populated regions Lojane and Vaksince.

The visits were paid due to surveillance and monitoring of the material and other conditions for temporary residence of refugees and migrants as well as monitoring of the procedure through which these persons go in order to improve the treatment they receive and the conditions they live in temporarily, regulation of their status and respect of the human rights as well as application of the international standards for protection of the refugees and migrants.

Within the project there were information pamphlets printed on the rights that belong to these persons as well as the opportunity for voluntary return of these persons in the land of origin and the manner in which the Ombudsman Institution could help in case of violation of these legal rights. The pamphlets for the refugees were printed in Macedonian, Albanian, Rima and Serbian language.

Within the project, in May 2017 there was a work shop with the following title: "The condition of the refugees in the RM from the Kosovo crisis period". In the focal point of the work shop were the problems faced by the persons in the process of naturalization and realization of their rights. At the work shop, the representatives from the competent national institutions took part as well as representatives from the non-governmental sector which are directly included in the resolution of these issues. The work shop resulted in concrete recommendations which afterward were further developed at separate meetings with the participants.

As a result of this work shop, in November 2017 there was a two day regional conference with the following title: "Integration of the Kosovo refugees, permanent decisions and voluntary return" which was attended by the Ombudsman Institutions- National Prevention Mechanisms from Albania, Kosovo and Montenegro, as well as representatives from the non-governmental sector and the relevant national institutions concerned with the issue of integration of the refugees from the Kosovo crisis.

At the conference, aside from the fact that each participating country had its own representation, the Ombudsman presented his research which had in objective to display the condition of the refugees from the Kosovo crisis in the Republic of Macedonia and the region, with clearly defined conclusions and recommendations for the improvement of the social and economic condition and finding a permanent solution regarding their temporary status of subsidiary protection. The recommendations and the conclusions of the work shop were transformed into publication.

The project will continue to be implemented in 2018 as well. Within the Strategy and Plan of Activities for the 2017 of the Association of Ombudsmen on the Mediterranean (AOM) implemented by the Migration and Refugees Committee of the Association, the Ombudsman, Mr. Ixhet Memeti along with a representative of the Association, Mrs. Charlotte Clavreul and a representative from the Ombudsman Office of the Republic of Albania, Mr. Alfred Kodzobashi visited the temporary transit center for migrants and refugees "Tabanovce", the admission center for the asylum seekers "Vizbegovo" and the safe house in Skopje. The goal of this visit was to inspect the conditions for admission and stay as well as the treatment of the migrants/ refugees.

The Ombudsman, Mr. Ixhet Memeti and the executive director of the Association of the Roma National Center, Mr. Ashmet Elezovski signed a Memorandum of Cooperation within the project: "Prevention of Discrimination against Roma Children", financially supported by the European Union Delegation. The signing of such Memorandum of Cooperation for the implementation of the rights of the Roma people in the RM is one more example of the efforts of the Institution of Ombudsman for the implementation of the international standards for human rights in the Republic of Macedonia.

Also, a Memorandum for Cooperation was concluded with the Helsinki Committee for Human Rights of the Republic of Macedonia with which the National Prevention Mechanism- Ombudsman authorized the Helsinki Human Rights Committee to take a part of the competences of the National Prevention Mechanism in the part of providing expertise in the performance of prevention visits and preparation of the special reports.

In 2017 another Memorandum of Cooperation was concluded with the civil association for democratic initiative represented by the executive director Mr. Lulzim Haziri in the name of ten organizations, cooperating with the project "Civil Society in action and equality" the objective of this memorandum is to enable mutual cooperation, understanding and assistance, to enable timely and efficient exchange of information from the area of anti- discrimination and the concept of information in the area of anti-discrimination and the concept of equality.

In December, 2017 the Ombudsman Mr. Ixhet Memeti and the Ambassador of the Republic of Bulgaria in the RM, Mr. Ivan Petkov, signed an Agreement for the implementation of the project: "Inclusion of the Roma after the Completion of the Roma Decade-current condition and future challenges". The objective of the project is improvement of the process of inclusion of the Roma and estimation of the achieved results from the Roma Decade and the operation of the relevant bodies and institutions working on Roma inclusion.

OMBUDSMAN - NATIONAL PREVENTIVE MECHANISM



According to the term of office, the National Prevention Mechanism (NPM) through inspections in the material conditions and conversations with the persons deprived of freedom as well as the employees in the professional service monitored the degree of realization of the rights of the detained persons and gave concrete recommendations in order to prevent possible risks from torture and other types of cruel and inhuman actions and punishments.

In 2017, aside to the lack of staff, i.e. the inability to fill the empty work posts in the National Preventive Mechanism, all activities were successfully realized and the prevention visits envisaged in the Annual Ombudsman-National Prevention Mechanism (NPM) Operation Programme were implemented.

Namely, third year in a row, under various excuses, the executive government does not provide funds to fill the empty work posts in the Team, so that the National Prevention Mechanism implements the determined term of office with a team of lawyers engaged with temporary agreements the operation of who is being financed by the High Commissariat for Refugees of the United Nations- UNHCR. In that sense, it must be stated that according the obligations taken, it is necessary for the country from the RM Budget to provide finances for the unobstructed functioning of the NPM.

Due to the implementation of the multidisciplinary approach toward determination of the possible risks from torture, the NPM this reporting year engaged external associates, experts from various areas by which the National Prevention Mechanism has concluded a Memorandum of Cooperation which at the same time are members of associations the scope of which is connected with the competences of the National Prevention Mechanism. In that direction, the visits of the NPM during 2017 were accompanied by members of the Association of Psychiatrists, the Young Lawyers Association, the Criminal Law and Criminology Association, the City of Skopje Social Work Association, the Medical Nurses, Technicians and Midwives Association, the Chamber of Psychologists, the Civil Association Legis.

During the reporting year 2017, there were organized and implemented 18 visits of institutions and other locations of freedom deprivation and freedom restriction as well as 30 visits to locations where on various bases migrants/ refugees are being accommodated or detained. Monitoring Annual Ombudsman Operation Programme, the National Prevention Mechanism conducted 13 preventive visits to police stations, 12 of which regular visits of the PS Celes, PS Valandoco, PS Vinica, PS Kicevo, PS for border control Sopot, PS Makedonski Brod, PS Kumanovo, PS. Aerodrom, PS Dracevo, PS Sveti Nikole PS. Bitola, PS Strumica and one subsequent visit of the PS Ohrid. Also three preventive and unannounced visits were paid to penitentiaries- Prison of Skopje, Prison of Strumica, Prison of Kumanovo and Open Department in Kriva Palanka as well as two preventive visits to other types of institutions- PHI Psychiatric Hospita- Negorci-Gevgelija and the Old People Home "Sue Rider" Bitola. The NPM prepared special reports on the performed visits and conditions concluded, which were submitted to the managerial persons of the institutions and the relevant ministries in order to take measures and activities to eliminate the determined irregularities.

During the reporting year, again in the focal point of the monitoring by the National Prevention Mechanism were the locations where the refugees and migrants are being detained/ accommodated due to inspection of the treatment of these persons considering the cooperation of the Ombudsman with the Office of the High Commissariat for Refugees of the UN (UNHCR). For that purpose, the NPM during the year continuously and in cooperation with the High Commissioner for Refugees of the UN (UNHCR) visited the Admittance Centers "Vinojug" and "Tabanovce",

the foreign citizens admittance center "Gazi Baba" and the PI admittance center for asylum seekers "Vizbegovo". Also, the National Preventive Mechanism visited the village of Lojane and the village of Vaksince as informal locations for admittance of refugees/migrants due to monitoring of the conditions and treatment toward these persons. The competences and the operation assignments of the NPM team during 2017 have expanded in direction of visits and contacts with the persons found on the RM territory from the Kosovo crisis period 1998/1999 located in Vizbegovo and Suto Orizari.

Regarding the international activities in the reporting 2017 representatives of the Ombudsman-National Prevention Mechanism took active part in several conferences and workshops referring to various contents.

Representatives of the Ombudsman- National Prevention Mechanism participated in all the meetings within the NPM network of South Eastern Europe that took place in Belgrade- Serbia, and Podgorica – Montenegro at which themes in the interest for the realization of the mandate of the national prevention mechanisms in the region were discussed.

Also, a representative of the NPM took part in the training- a summer school entitled "Application of the Standard Minimum Rules of the UN for treatment of convicted persons-Mandela Rules-in the monitoring of the penitentiary and correctional facilities" which was implemented in Bristol, Great Britain. The National Prevention Mechanism took active part on several work meetings in Brussels- Belgium, organized within the activities of the European Network of National Institutions for the Protection of the Human Rights as well as in Casablanca, Morocco, where a training session was organized by the Mediterranean Ombudsmen Association entitled: "Deontology of the Security Forces and Rights of the Migrants during the migration movements: Role of the Ombudsman Institutions". The Ombudsman Institutions from 16 Mediterranean countries took part on the mentioned session as well as high representatives of several non-governmental and international institutions. The training was divided into several modules at which the participants could share their experience on the topic and at the same time identify the positive and negative practices of the actions in each of the countries.

By invitation of the High Commissariat for Refugees of the UN and in cooperation with the European Union, representatives of the NPM attended training held in Beirut, Lebanon on the following topic: "Monitoring over the Immigration Custody" and participated in the training on the topic "Various Alternatives of Custody in Context of the Global Refugee Crisis" held in Brussels, Belgium.

By the end of the year, upon invitation of the Ombudsman Institution of Spain, a NPM representative participated in a court visit as part of the work group of the children-migrants within the Association of Ombudsmen from the Mediterranean in Madrid, Spain.

A NPM representative participated in the conference held in Sarajevo on the topic "Economic and Social Rights of the Forcibly Relocated Persons from the Conflict in the Former Yugoslav Republic" organized by the Department for European Social Treaty of the Council of Europe.

NPM took active part of the European Forum of national prevention mechanisms held in Prague, the Czech Republic, organized by the Czech Ombudsman.

Also, the National Prevention Mechanism attended workshops and trainings organized in the country along with state institutions and bodies, representatives from the civil sector and international organizations.

A NPM representative participated at a conference held in Strumica on the topic "The Role of the Municipalities in the Integration Process of the Refugees in the RM" organized by the Macedonian Association of Young Lawyers where the challenges faced by the municipalities in the refugees integration process were presented.

At a conference held in Ohrid, attended by representatives of the NP the final stage of the project "Enhancement of the Local Players in the Refugee Integration Process in Macedonia" was presented and finalized and also a research prepared within the project was presented.

A representative from the Ombudsman Office- National Prevention Mechanism took part on the Consultative Workshop for the Refugee and Foreign Citizens Integration Strategy 2017-

2027 organized by the Ministry of Labor and Social Policy supported by the High Commissariat for Refugees of the UN.

During 2017 the National Prevention Mechanism organized a workshop on the topic "The Conditions of the Refugees Found in the RM during the Period of the Kosovo Crisis" at which representatives of the Ministry of Interior took active part as well as representatives of the Ministry of Labor and Social Policy, the Ministry of Justice, representatives of the judiciary, NGO representatives and international organizations which are directly included in the resolution of the problems of the refugees of the Kosovo Crisis. At the workshop the common conclusions emerging from group work of all participants were presented and through them they proposed possible solutions to overcome and solve part of the problems faced by the Kosovo refugees. The results that emerged from the workshop were further shared and debated at work meetings which the National Prevention Mechanism held with representatives of the state institutions as well as domestic and international organizations which are active players in the entire process of resolution of this multiannual problem faced by these persons.

The Ombudsman- National Prevention Mechanism in November in cooperation with the High Commissariat for Refugees of the UN organized a Regional Conference on the topic: "Integration of the Kosovo Refugees, permanent solutions and voluntary return". Aside to the Ombudsman from the RM, regional representatives of the Ombudsman Institutions as well as representatives of state bodies, non- government organizations and international organizations took part and presented their experiences regarding the action to resolve the problems faced by the refugees in the Kosovo crisis. Also, with the aim of more facilitated resolution emergence, a research was presented that was conducted by an engaged external expert who gave a comprehensive review of the conditions and problems faced by the Kosovo refugees with conclusions and proper recommendations on the manner of their resolution.

Within the promotional activities, the NPM prepared a leaflet intended for the refugees of the Kosovo crisis entitled "Permanent Resolutions and Voluntary Return".

RESEARCHES, SPECIAL REPORTS, INITIATIVES FOR LEGAL AMENDMENTS



The consideration of the conditions by respecting the rights of the citizens, except through the actions taken upon the submitted complaints, is made by the Ombudsman through researches uncertain areas that represent a foundation for the preparation of the Special Reports in which the weaknesses of the system are detected and present grounds to provide precise recommendations. The reports are forwarded to the competent institutions in order to introduce them and take action to overcome the concluded conditions.

At the same time, a part of the operation, outside what is called case work, is also the monitoring and analysis of the legal regulation resulting with submission of initiatives for legal amendments for its improvement and elimination of the obstructions that harden the realization of the rights of the citizens.

SPECIAL REPORTS IN THE AREA OF CHILDREN'S RIGHTS AND SOCIAL RIGHTS

The main objective of the research of the Ombudsman in the part of the rights of the child to contact its parent he/she does not live with was to determine the condition in the realization of the right to personal contact with the parent he/ she does not live with, the efficiency of the competent social work centers as well as regarding the protection of this right of the child and regarding the elevation of the parental potentials to overcome the conflict conditions reflecting on the unobstructed realization of this right of the child. The results of this research are contained in the Special Report on the condition with the realization of the right to personal contact of the child with the parent he/ she does not live with submitted to the competent institutions.

Among other things, this report provided overview of the duration of the procedures for adoption of decisions of the competent municipal social work centers regarding the right to personal contact between the child and the parent. Then, the inclusion of the children in the decision making process within the local competent social work centers, the efficiency in the implementation of the decision for contact in the social work centers, the challenges and possible measures in case of disrespect of the decision by the parent as well as the measures and activities of the Center for elevation of the awareness on the role and significance of the parents in the performance of the parental rights and obligations.

The Ombudsman in this research concluded that the right of the child to maintain regular and quality contact with the parent is being realized with difficulties which violates one of the most significant rights which influences the child's correct development and is contrary to the Convention for the Children's Rights and the Law on Family. Also, it has been determined that there is no significant development in the right of the child to contact the parent he/she does not live with regularly and the realization of this right depends greatly on the good will of the parent the child lives with. The lack of mechanism for effective monitoring of the decisions for the realization of the right to maintain personal contact of the child with the parent she/he does not live with adopted by the locally competent social work center is one of the determined weaknesses including the supervision of the parental right as a measure that is used very little and rarely legal measures are taken toward the parent that interferes with the maintenance of contact with the other parent which reflect negatively on the child.

In order to overcome these conclusions, the Ombudsman in the special report recommended these procedures and decisions related to the rights of the child, the competent centers for social work and the courts when deciding to give the child to a parent to always have in mind the best interest of the child and provide the child capable to state their opinion with the right to express itself and pay attention to the age and maturity of the child. Also, measures should be implemented in cases when the parent obstructs the right to personal contact of the child and the parent it does not live with and in that context to sanction such behavior according to the law.

In the area of the rights of the children special attention was paid by the Ombudsman to the children without parents accommodated in the Public Institutions. In order to determine the condition and conditions to realize the rights of these children the Ombudsman visited the Public Institution for Infants and Mothers in Bitola, the Public Institution for Children without parents and Parental Care "11 Oktomvri"- Skopje and the SOS Children Village- Skopje.

The visits had in focus the determination of the accommodation capacities (spatial conditions, nutrition and health protection) what is the number of the children/ infants accommodated in these institutions and what is the staffing in the institutions, their cooperation with the competent bodies and to what extent are the legal provisions respected that refer to this category of children.

Based on the visits, the Ombudsman prepared a Special Report on the conditions and the condition for the realization of the rights of the children without parents and parental care accommodated in public sheltering institutions in the RM.

It contains conclusive reviews according to which the institutional care is being further complained as well as the institutional care and protection provided for the children without parents and parental care as opposed to the tendency of the state for greater activation of the process of deinstitutionalization which implies taking action to prepare the users accommodated in the facilities to be returned in their birth families or application of some of the forms of the deinstitutionalized protection (shelter family, home- family, small group home).

Due to the number of the children in the institutions, the individual treatment of each child-user is being disabled. The lack of possibility for full commitment in the operation of the staff which is small in number causes dissatisfaction and feeling of unwanted and problematic children with the users themselves and supports the stereotypical prejudice of the environment for these children as "home children". Due to the aforementioned, the Ombudsman, among other things recommended taking measures to elevate the quality of the care of the children and young people as service users through continued activities for efficient deinstitutionalization of the users accommodated in these institutions and the transformation of the institutions.

Also, the Ombudsman recommended to support the forms of deinstitutionalized care for the children and to provide them with safety, support by the family, continuity of the care and affection as well as possibility for the young children to form long term affection based on mutual trust and respect for all children included in the home.

The Ombudsman, acting upon cases formed by citizens and associations for the protection of the rights of the children from any type of abuse and in the sense from the drug abuse and other psychotropic substances, from the findings that for the children, i.e. the persons under 18 that tried, and in many cases became addicted from various drugs, the state has not established a system for their treatment and prevention and detection, there are no protocols for pharmacological and psychiatric treatment and there is no medical center for treatment of child addicts and there is not enough trained staff for work with children that use drugs, decided to research these conditions.

For this purpose, the Ombudsman prepared a Questionnaire and submitted it to the Municipal Centers for Social Work, to the internal operation sectors within the Ministry of Interior, to the general hospitals and clinics, the Sheltering Institute "Ranka Milanovik" the VPD Tetovo and civil organizations. From the data received he prepared a Special Report on the condition of the children using drugs and other psychotropic substances which was submitted to the competent bodies in order to familiarize with the conclusions and act towards the given recommendations.

From the analysis of the obtained responses it has been concluded that the professional staff working in the institutions within the competence of which is the protection of the children and their best interest do not identify the risk from the use of drugs and other types of psycho-

active substances with the children. Also, the institutions competent to provide proper care and nurture to the children who use drugs do not have enough professional and trained staff and there are not enough spatial capacities for proper protection and treatment of the children who use drugs and other types of psychoactive substances.

The inexistence of proper counseling, programs for work as well as day centers for children who use drugs and other psychotropic substances at a central and local level, as well as the inexistence of proper departments in healthcare institutions intended for the protection and treatment of children using drugs and other substances is a great problem in the management of this deviant occurrence. At the same time, the inexistence of proper programs for rehabilitation and resocialization in one of the competent institutions poses a great problem.

According to this, the Ombudsman in the special report recommended to enhance and upgrade the professional staff in the institutions within the competence of which is the protection of the children and their best interest directed toward detection of the drug abuse with the children. In order to handle this condition it is necessary to provide proper and professional staff in the institutions competent for proper care and nurture of the children using drugs and other psychotropic substances with proper spatial and technical capacities, opening counseling centers, creation of proper work programs as well as opening Day Centers for children using drugs and other psychotropic substance at a local level. It is also necessary to adopt proper programs for rehabilitation and resocialization in all competent institutions working with children at risk and in that sense with children-drug users and other psychotropic substances.

In the reporting year, the Ombudsman with the financial support of the UNICEF and in cooperation with the Association for assistive technology "Open the Windows" from Skopje implemented a research on the condition of the persons with disabilities in the Secondary Education after which he prepared a special report on the inclusion of the children and young people with special needs in the middle schools and submitted in to the competent bodies.

From the analyses of the received data the Ombudsman in the Special Report among other things concluded that the legal regulation is not fully aligned with the provisions from the key international documents in this field: KPLP, KPD and the Declaration of Salamanca. This includes the right to entry (approach) of the students with disabilities in the secondary education. Also, there is lack of a mechanism for systematic identification, recording and monitoring of the students with disabilities in the regular secondary education. On one hand, that largely decreases their education possibilities and on the other makes the planning of the educational policies difficult.

For these reasons, and for the improvement of the conditions, it was recommended to initiate modifications of the legal regulation for full alignment of the national legislation with the key international documents in this area: the Convention for the Rights of the Persons with Disabilities, the Convention of the Rights of the Children and the Declaration from Salamanca and the legal modifications to be prepared in a participation process of consultations with persons with disabilities, their families, the civil sector, teachers, representatives of the professional teams of the middle schools, experts and professionals. Also, it is necessary to correct the legal frameworks for enrollment of the children with disabilities in the regular secondary education, according the international standards and the regular education should become the first option for the children with the disabilities and not the exception.

One more area was at the focal point of the research of the Ombudsman for which he prepared and sent to the competent institutions a Special Report from the research of the conditions with the realization of the right to social monetary assistance in the Republic of Macedonia.

Namely, years back, the Ombudsman regarding the realization of the rights within the social protection, concluded a line of conditions due to which the citizens were not able to realize the determined rights from the social protection area. Namely, in a large number of cases an intervention of the Ombudsmen was requested regarding the realization of the rights to monetary assistance, delay of the procedures for decision making for the requests of the citizens, irregular payment of funds or termination of the right due to receipt of funds through quick money transfer and inability to realize the right due to obligation to refund the funds.

From the problems faced by the social help users, the Ombudsman concluded that the Social Work Centers mostly decide within the legal term upon the civil requests. The most common reasons due to which the procedure for decision making within 60 days is being delayed are: the untimely submission of the electronic data by the Ministry of Interior and the Public

Revenue Office, the lack of conditions for the performance of initial or repeated examination in the requestor's home. Also, the possible hold up is mostly present due to lack of connection of the social numbers of the citizen- user with the transaction bank accounts and that the social work centers in a small number of cases have initiated court procedures to return the groundlessly received funds and the number of concluded agreements for refund of funds is very small.

To overcome the stated weaknesses the Ombudsman recommended to review the possibilities to simplify the procedures regarding the collection of the necessary data by official means and their timely submission to the competent centers due to deciding in the legal term as well as to provide material and technical, office and other conditions for field work of the official persons, performance of timely examinations and bigger field visibility of the expert persons that are competent to decide upon the requests for social help. One of the recommendations is the respect of the legal terms for prohibition of the realization of the right to social help and unobstructed continuation of the right after the term for prohibition.

INITIATIVES FOR LEGAL AMENDMENTS

The monitoring of the prescriptions (with the amendments of the Law on Ombudsman that started in March last year, for this purpose envisage formation of a separate Department) was also part of the external operation of the Ombudsman. This activity resulted in several initiatives for legal amendments the purpose of which is the improvement of the prescriptions directed towards more efficient realization of the civil rights.

Therefore, to overcome the problems faced by the citizens not entered in the birth records, i.e. for the persons who do not have the right to legally recognized identity, personal name and surname, address and unique id number, the Ombudsman submitted an initiative for amendment of the Law on Extrajudicial Procedure. This initiative proposes establishment of separate chapter – Birth time and place determination procedure, which would result in overcoming the problems of the stated persons i.e. would regulate the issues of the initiation of the procedure, the collection of the notification of the, persons, the litigation and the exhibition of evidence adoption of the decision and its submission to the body competent for birth records keeping due to realization of the right to registration. Also, the amendmentS should contribute to the determination of the deadline within which the court would adopt the decision as well as the possibility for relieve from court fee payment of these persons.

Following the prescriptions from the area of the healthcare protection, the Ombudsman estimated that amendments of the Healthcare Insurance Law need to be done in the part where the possibility for relieve from payment of participation is regulated. Namely, the current provisions are discriminatory because the law relieves the users of permanent social help from participation payment and not the users of social help. Here from the Ombudsman considers that considering that the social help is a system of measures, one of them should be the possibility for them to be relieved from payment of participation for hospital treatment.

The Government notified the Ombudsman that the relevant ministries supported the proposed amendments.

The Ombudsman to the Government of the Republic of Macedonia submitted an initiative for amendment of the Law on Medicine and Medical Means which referred to the so called parallel import of medicines determined lacks putting the quality of the medicines under suspicion.

For these reasons, the Ombudsman requested to make several legal; amendments. There should be expert estimation of the medicine by the Commission and there should be a procedure as the one envisaged with the regular medicine import, to establish a registry of medicines from parallel import. Furthermore, each imported batch should be controlled, the possibility for temporary approval should be dismissed and the provisions from the entire law should be aligned and especially those referring to the parallel import procedure with the EU regulation regarding the production and circulation of the medicines.

The Ombudsman upon own initiative, based on the concluded condition for the violation of the rights to a larger number of citizens, according to his authorizations, to the Government of the RM submitted an Initiative for amendment of the Law on Tax Procedure and the Law on

Property Taxes. In this initiative he requested alignment of the legislation so that the Public Revenue Office and the City of Skopje and the municipalities to prepare the decisions for forcible collection based on monetary claim on the account of the natural person in a manner that is observant of the limitations of the enforcement, i.e. to not take more than one third of the salary or pension, not to implement enforcement on revenues based on social protection, disability pension or single monetary help, child contribution etc.-to respect the dignity of the debtors and the families and to make the enforcement more favorable for them.

Monitoring the problems with children marriages and with the aim of their decrease/ elimination the Ombudsman to the Government of the RM submitted an Initiative for amendment of the Law on Family, the Criminal code and the Secondary Education Law. Therefore, the Law on Family is to be amended with a provision prohibiting the living of the minors in an extramarital union and the Criminal Code is to be amended within the provision which now does not sanction the condition when a person is of 16 years of age and under the of 18 to live with a person who is over 16 and under 18. Also, the Ombudsman considers that the child marriages problem will be largely solved by the amendment of the Law on Secondary Education which should impose the responsibility to the parents to report when their children leave the education process due to formation of an extramarital union of their child. The Ombudsman, for this initiative was informed by the Government that it has been supported by the relevant ministries.

Determining that the current legal norms from the Law on Protection of the Children that refer to the compensation for a third child, envisaging that this contribution is only for the mother, but not the father create inequality and legal uncertainty, the Ombudsman to the Ministry of Labor and Social Policy submitted an initiative for amendments in a manner that would precise and regulate the right to realization of this contribution equally to both parents i.e. either the mother or the father to be able to realize the right if they meet the legal conditions, as well as to review the possibility to find a proper legal solution for the parent who is user of the social help to be able to realize a parental contribution for a third child.

During the reporting year, the Ombudsman to the Constitutional Court submitted a proposition for the estimation of the legality and legitimacy of the Decision of the Council of the Municipality of Mavrovo and Rostuse imposing the obligation to the weekend houses owners to pay 600 MKD for the cleaning of the snow on the local roads during winter.

Namely the Ombudsman concluded that the Council is not competent to adopt such decision as well as that the decision, contrary to the Constitution causes inequality with the citizens, i.e. it discriminates them because it does not cover the residents in the villages Mavrovi Anovi and Rostuse.



COMMUNICATION AND COOP- ERATION OF THE OMBUDSMAN WITH INTERNATIONAL BODIES AND ASSOCIATIONS



COOPERATION WITH INTERNATIONAL ORGANIZATIONS AND BODIES

The Ombudsman this reporting year as well, actively participated on the meetings and events organized by the associations and ombudsman networks.

In April a conference was held for the initiation of the new project of the Council of Europe, the purpose of which is to create a network of the National Prevention Mechanisms (NPM) of the European Union and wider, as well as harmonization of the operation of the NPM bodies in Europe. The project has been funded by the European Union and the two day conference was held in the headquarters of the Council of Europe in Strasbourg, the Republic of France. During both work days, at the conference it was discussed about the enhancement of the NPM role in the protection of the human rights at the places for freedom deprivation and their functionality at site. The second consecutive meeting within the project took place two months later when the European Migration Rules were reviewed and publicly discussed.

Organized by the Commission for Fight against Racism and Intolerance (EKRI) in the Council of Europe in Strasbourg a seminar was held regarding the specialized bodies on the topic "Revision of the General Recommendation number 2 or (RPR) NO.2" attended by a representative of the Ombudsman. Through the several sessions of this two day seminar through several discussions the positive and negative oppositions from the task force for the preparation of the draft text of the Second General Recommendation of the EKRI Committee referring to the "Specialized Bodies for Fight against Racism, Xenophobia, Anti-Semitism and Intolerance at National Level.

The promotion, as a part of the Paris Principles and its application in the operation with the civil sector, as well as the application in Sustainable Development Goals were part of the topics at the Academy organized by the National Institutions for Protection (ENNHRI) and OSCE/ ODIHR and was held in Poznan, the Republic of Poland and was attended by the representative of the Ombudsman.

The Academy, among other things, was a place to exchange experiences regarding the operation of the persons with special needs, the rights from the areas of the social protection, gender equality, as well as the manners and the need to exchange information within ENNHRI.

The Ombudsman, Mr. Ixhet Memeti participated at a seminar and the General Assembly of the European Network of national institutions for human rights of the European network of national institutions for human rights held in November in Brussels, Belgium.

Within the Assembly the alternative member of the sub- Committee for Accreditation within the Global alliance of National Human rights Institutions was elected and the provision for increase of the membership fee for the member states of this network was adopted to increase its efficiency and proactiveness on the project plan.

The Ombudsman, Mr. Ixhet Memeti, in the capacity of observer of the Administrative Board of the EU Fundamental Rights Agency, for the first time participated at the two day meeting of the Board held in December in Vienna, Austria.

Within the two day meeting, Mr. Ixhet Memeti met representatives of the managerial structure of the Agency Mr. Joanis Dimitrakopoulos, a chief of the Department for Equality and Rights of the Citizens and Mr. Andreas Akardo, chief of the Cabinet of the Director of the Agency and met the activities of the FRA field of the human rights and freedoms. At a separate meeting he conversed with the director of the Agency Mr. Michael Ofaerty with whom he agreed on the future

activities regarding the inclusion of the RM in the operation of the Agency as well as his visit of the country in the second half of 2018.

The Ombudsman, Mr. Memeti was grateful because the RM obtained the opportunity to become the first country in the region to be an observer from the Wes Balkans Region and expressed that he feels personally honored for being elected to do this duty.

At the two day meeting part took all member states of the EU and it was discussed about the work done so far by the agency in 2017 and the upcoming activities envisaged for 2018, as well as in the long term during the four year period until 2022.

EUROPEAN LEVEL COOPERATION

A representative of the Ombudsman participated at two day event held in Bucharest, the Republic of Romania within which the General Assembly of the European Ombudsman Institute was held as well as the human rights conference for the 20th anniversary of the Ombudsman Institution in Romania.

Within the General Assembly of the EOI the old members were reelected for this international body, i.e. the managerial board, the supervisory board, the secretary general etc.

During the conference, divided in two parts, at which the political independence was discussed regarding the human rights institutions, as well as the role these institutions have in the elimination of the discrimination, the representative of the Ombudsman of the RM publicly spoke on the independent functioning of the institution in the RM.

REGIONAL COOPERATION

The protection of the rights of the refugees attracted the attention of the ombudsmen in the region and within the organization of the Great Assembly of Turkey and the Office of the Ombudsman in Ankara, the fourth symposium of the Ombudsman Institutions took part and was devoted to refugee crisis. In his address, the Ombudsman, Mr Ixhet Memeti spoke about the respect of the rights of the persons in transit and the readiness of the countries to expect fully the solidarity principle. He stressed that despite the many warnings against the risks and challenges, the lack of consideration and the irresponsible policies of the countries resulted in mass breaches of the rights of the refugees and migrants and the creation of direct risks for their safety and the safety of the countries and citizens.

For the 25 year jubilee of the Ombudsman in the republic of Croatia, the Ombudsman took part at an international conference organized for that occasion, where among other things, it was spoken of current issues such as the elimination of the terrorism and freedom of speech and it was also discussed on the creation of atmosphere for common living of the different communities, the respect of the differences and the integrative processes.

A representative of the Ombudsman took part at an event organized for the promotion of the Special Report of the Ombudsman from Greece for the migration courses and protection of the refugee rights. The two day event was held in Athens. The condition with the refugees and the realization of their rights was presented, also the conditions in the refugee camps as well as the challenges faced by the country since the beginning of the refugee crisis until today. The discussion between the Ombudsmen from the region covered several topics like the enhancement of the cooperation between the relevant national institutions on regional level and increase the information flow among them. At the event the initial activities were agreed to enhance the capacities of the institutions through exchange of experiences.

The Ombudsman Mr. Ixhet Memeti participated at the International Conference held in Ljubljana, the Republic of Slovenia and there the "Participation of the public in the adoption of the prescriptions referring to the environment" was discussed and was organized by the Slovenian Ombudsman Office.

At the conference the Ombudsman from the Ex Yu Republics- Macedonia, Croatia, Slovenia, Bosnia and Herzegovina, Kosovo, Serbia and Montenegro signed a Declaration for Cooperation in the area of the environment and human rights and formed a network of the Ombudsmen for protection of the environment and human rights within which they would exchange knowledge and best practices through which they would create conditions for closer cooperation in the field of the environment protection.

It has been agreed that the first year from the presidency of Slovenia with the network to develop the cooperation through regular annual meetings, common visits, conferences or meetings of the network representatives, theme meetings, common visits of the degraded areas, exchange of knowledge and skills as well as documents, information and reports. In the Declaration it has been also stressed that the rights to a healthy environment is one of the fundamental human rights (third generation) the realization of which requires adoption of system measures in all countries and that the issues for a safe, health and acceptable environment is important for all neighboring countries and especially for the cross border and global environment.

The Ombudsman, Mr. Ixhet Memeti participated at a two day event in Istanbul, Turkey within which the international Ombudsmen Conference was Held for Europe, Asia and Africa devoted to the role and efficiency of the Ombudsman Institutions and the problems they face in the actions taken upon complaints. At the conference the ombudsman from several countries held their presentations speaking on the importance which the national institutions have in their countries for the protection of the human rights and freedoms.

Aside to the conference, during the second day a meeting was held of the Administrative Board of the Association of Ombudsmen and Mediators of the Mediterranean (AOM) at which the activities realized so far by the Association were reviewed, the new operational plan for 2018 was adopted and the initial steps for the holding of the conference in Skopje in 2018 when ten years of the Association will be marked as well as 10 of the Ombudsman Institution of the RM, were agreed.

On the importance of the holding of the conference in Skopje the Ombudsman also spoke focusing on the celebratory marking of both jubilees, 10 years from the establishment of the AOM and 20 years from the formation of the RM Ombudsman Institution.

A representative from the Ombudsman Office- NPM in October 2017 participated at a training session organized by the Association of Ombudsmen on the Mediterranean in Casa-blanca, Morocco hosted by the Mediator of the Kingdom of Morocco. The training session was "Deontology of the safety forces and the rights of the migrants during their migration movements: the role of the Ombudsman Institutions" and was attended by representatives of the Ombudsman Institutions from a total of 16 Mediterranean countries as well as high representatives of several non- governmental and international institutions. The training was divided into several modules, at which the participants were able to share their experience on the topic and at the same time identify the positive and negative practice of each country.

STATISTICAL DATA



In the reporting year, the Ombudsman received a total of 4.185 complaints 3.223 from 3.387 complainants (citizens, organizations, associations) of which during the reporting period and the rest 962 were transferred from the previous year.

Most of the complaints - 2.288 were admitted personally from the complainants in the Ombudsman Offices, 540 by mail, 177 by e-mail, 134 through the web page, 33 by phone, 2 by fax and 49 formed by own initiative.

The Ombudsman continued with the immediate admittance of citizens in the Skopje office as well as in the offices in Bitola, Kicevo, Tetovo, Kumanovo, Stip and Strumica and advised the citizens on the manner and body they should address to request for protection or realization of the rights when according to the authorizations of the Ombudsman a procedure regarding their requests cannot be initiated.

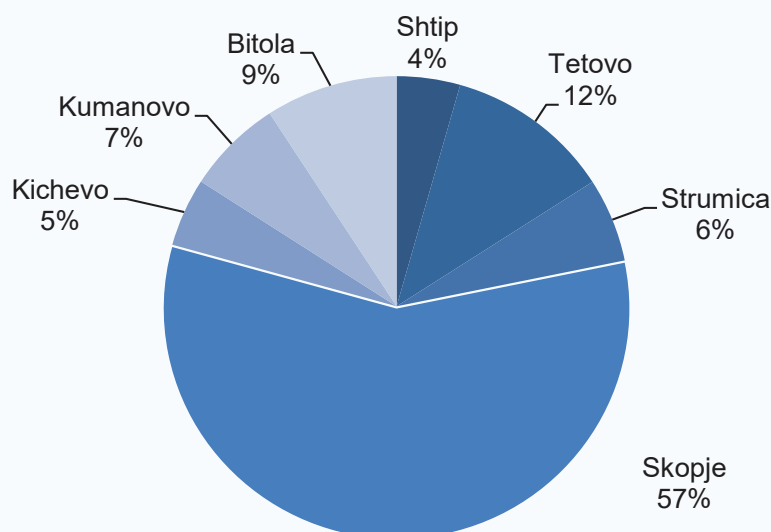
The conclusion that the citizens recognize the Ombudsman as a body they can address to for advice or protection of their rights has been confirmed this year as well. For that purpose, and

Review no.1

REVIEW ON RECEIVED COMPLAINTS																				
	2008		2009		2010		2011		2012		2013		2014		2015		2016		2017	
	No.	%	No.	%	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	69	1,83	70	2,17
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	133	3,52	152	4,72
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	45	1,19	53	1,64
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	577	15,28	576	17,87
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	245	6,49	157	4,87
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	155	4,11	199	6,17
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	48	1,27	11	0,34
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	83	2,2	101	3,13
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	135	3,58	138	4,28
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	29	0,77	17	0,53
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	106	2,81	119	3,69
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	165	4,37	158	4,90
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	15	0,4	22	0,68
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	1039	27,52	510	15,82
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	174	4,61	125	3,88
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	309	8,19	281	8,72
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	198	5,25	264	8,19
Persons with special needs									10	0,23	10	0,26	11	0,26	9	0,2	15	0,4	5	0,16
Census							12	0,28	3	0,07										
Electoral rights							90	2,11			42	1,11	78	1,84	2	0,05	65	1,72	25	0,78
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	170	4,5	240	7,45
TOTAL:	3022	100	3632	100	4043	100	4256	100	4346	100	3780	100	4249	100	4403	100	3775	100	3223	100

considering the frequent cases of address of the citizens due to inability for financial reasons to engage a lawyer, the Ombudsman repeats the recommendation for enhancement of the system for free legal assistance so that the citizens in a difficult position can use it and cannot afford such help themselves due to the difficult material and financial condition they are in.

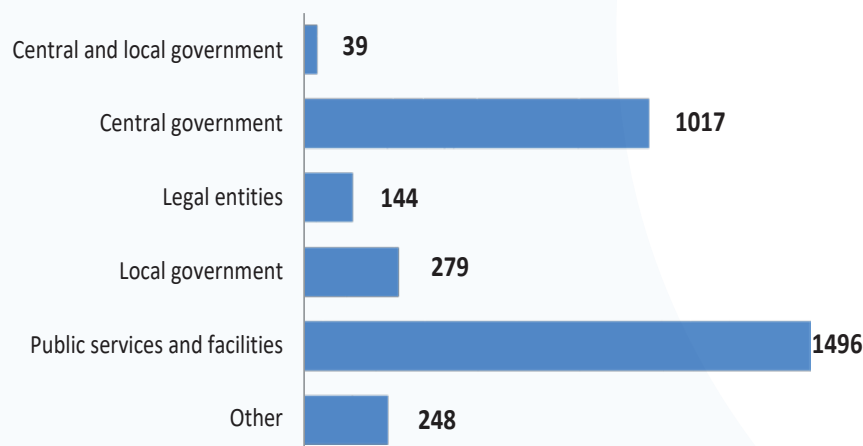
Picture no. 1



This reporting year, the Ombudsman Office in Skopje acted upon 1.854 the Tetovo Office - 371, Bitola- 296, Kumanovo- 216, Strumica- 190 Kicevo- 155 and Stip 142 complaints.

From a total of 3.223 received complaints in 2017 most of them 1.496 or 46,42% refer to violation of rights by the public services, 1.017 or 31,55% refer to violation of the rights by the central government, in 279 complaints or 8,66% the rights have been violated by the central government, in 144 complaints or 4,47% the rights have been violated by the legal entities, in 39 complaints or 1,21% the rights have been violated by the central and local government and in 248 complaints or 7,69% the rights have been violated by other subjects.

Chart no. 1



This reporting year, the number of citizens- complainants that expressed their ethnicity has been decreased for 10%. 1350 citizens or 41,91% from the citizens that submitted a complaint did not declare their nationality. The analysis of the data shows that such condition has been noted in almost all areas, especially in several ones. An example in the non- discrimination area and proper and equitable representation from a total of 70 complaints, in 50 the citizens did not declare their nationality. In the police authorizations and civil conditions area, from a total of 205 complaints, in 61 they did not state their nationality, in the labor relations area in 126 cases the

citizens did not express the nationality. It is similar with the vulnerable civil groups in the area of the rights of the child and persons with disabilities where from a total of 124 complaints, the complainants of 106 did not state their nationality.

The Ombudsman considering the areas where the citizens require protection and want to omit their nationality in the form for complaint, concluded that the citizens fear that if they express their nationality it will be an obstacle to realize their rights.

From the total number of complainants of complaints, 58,09% or 1.871 citizens expressed their nationality.

Review no. 2

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2017 ACROSS DOMAINS																			
AREA	Received in 2017	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Number of formed case upon a self-initiative	With decision for termination or non-initiation of procedure	Resolved in another manner	Manner of closing							Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending case
									Legal advice	Opinion, suggestions and recommendations provided	Violations found								
											Acted upon the Ombudsman's intervention	All legal activities taken by the Ombudsman	No activities taken upon the Ombudsman's interventions	Information to ministers					
Non-discrimination and adequate and equitable representation	70	89	20	90		1	47		1	31	21	6	4				75	15	
Police procedures	152	179	85	237	1	6	109		3	27	15	2	10				130	107	
Civil states and other interior affairs	53	53	46	99		1	29			22	16	4	2				49	50	
Judiciary	576	580	177	753	2	1	459		1	114	112		2	1			574	179	
Social protection	157	155	58	215		3	115			56	46	2	8	1			163	52	
Labor relations	199	225	54	253		2	119		13	50	30	6	14	2			168	85	
Housing relations	11	11	4	15			13			0							13	2	
Health protection	101	98	19	120		3	60		1	35	24	7	4				92	28	
Pension and disability insurance	138	137	27	165			92		1	41	33	1	7	1			127	38	
Education, science, culture and sport	17	16	10	27		1	6			16	14		2				20	7	
Children's rights	119	161	12	131		11	58		7	50	40	8	2	1			113	18	
Urban planning and construction	158	173	48	206	2		116		2	26	20	4	2				144	62	
Environment	22	25	3	25			18		1	2	1	1					21	4	
Finances	510	511	158	668			151		1	470	447	5	18				604	64	
Property – legal relations	125	128	34	159	1		89		1	41	32	1	8				124	35	
Consumers' rights	281	307	48	329			224	1	2	50	31	4	15				262	67	
Penitentiary – correctional and educational – correctional institutions	264	265	53	317	1	18	156		19	55	46	5	4	1			227	90	
Persons with special needs	5	4	1	6		1	2		1	2	1	1					5	1	
Electoral rights	25	25	26	51			28			11	5	5	1				38	13	
Other	240	245	79	319	5	1	167		3	38	36	1	1	3	1		212	107	
TOTAL:	3223	3387	962	4185	12	49	2058	1	57	1137	970	63	104	10	1	0	3161	1024	

Most of the citizens that expressed their nationality are Macedonians 1.181 or 36,67%, 459 or 14,25% are Albanians, 117 or 3,63% are Roma; 65 or 2,02 % are Turkish; 14 or 0,43% are Vlachs, the same number are Bosniak; 9 or 0,28% are Serbians, 7 or 0,22% belong to the other nationalities, and only 5 or 0,16% are citizens declaring as Macedonian Muslims.

According to the place of residence of the complainants, most of the complaints come from Skopje, i.e. 1.291, then complaints from: Tetovo, Bitola, Kumanovo, Strumica, Kicevo, Stip, Gostivar and the rest of the big urban environments as well as other countries. It is noticeable that most numerous are the complainants living in places where the regional offices of the Ombudsman .

Review no. 3

REVIEWS OF RECEIVED COMPLAINTS ACROSS CITIES AND STATES OF FOREIGN COMPLAINANTS					
City	Year 2016	Year 2017	City/state	Year 2016	Year 2017
Berovo	6	2	Negotino	17	20
Bitola	359	233	Ohrid	88	77
Bogdanci	3	5	Pehcevo	2	5
Valandovo	4	5	Prilep	71	62
Veles	39	43	Probistip	11	11
Vinica	9	7	Radovis	12	29
Debar	12	15	Resen	15	7
Delcevo	5	4	Skopje	1289	1291
Demir Hisar	8	5	Struga	32	20
Demir Kapija	3	3	Strumica	190	171
Dojran	1	1	Sveti Nikole	13	12
Gevgelija	18	21	Tetovo	622	306
Gostivar	123	102	Stip	146	119
Zletovo	3		Austria	1	
Kavadarci	38	40	Bosnia and Herzegovina		1
Kicevo	144	134	Bulgaria	1	
Kocani	39	25	Germany		2
Kratovo	5	4	Poland	1	
Kriva Palanka	22	20	Serbia	8	4
Krusevo	9	8	Slovenia	1	
Kumanovo	251	228	Turkey		1
Makedonska Kamenica	2	1	Hungary	1	
Makedonski Brod	14	13	Montenegro	1	
Mavrovo	1		No city or state selected	135	166
TOTAL:				3775	3223

DATA ACCORDING TO AREAS

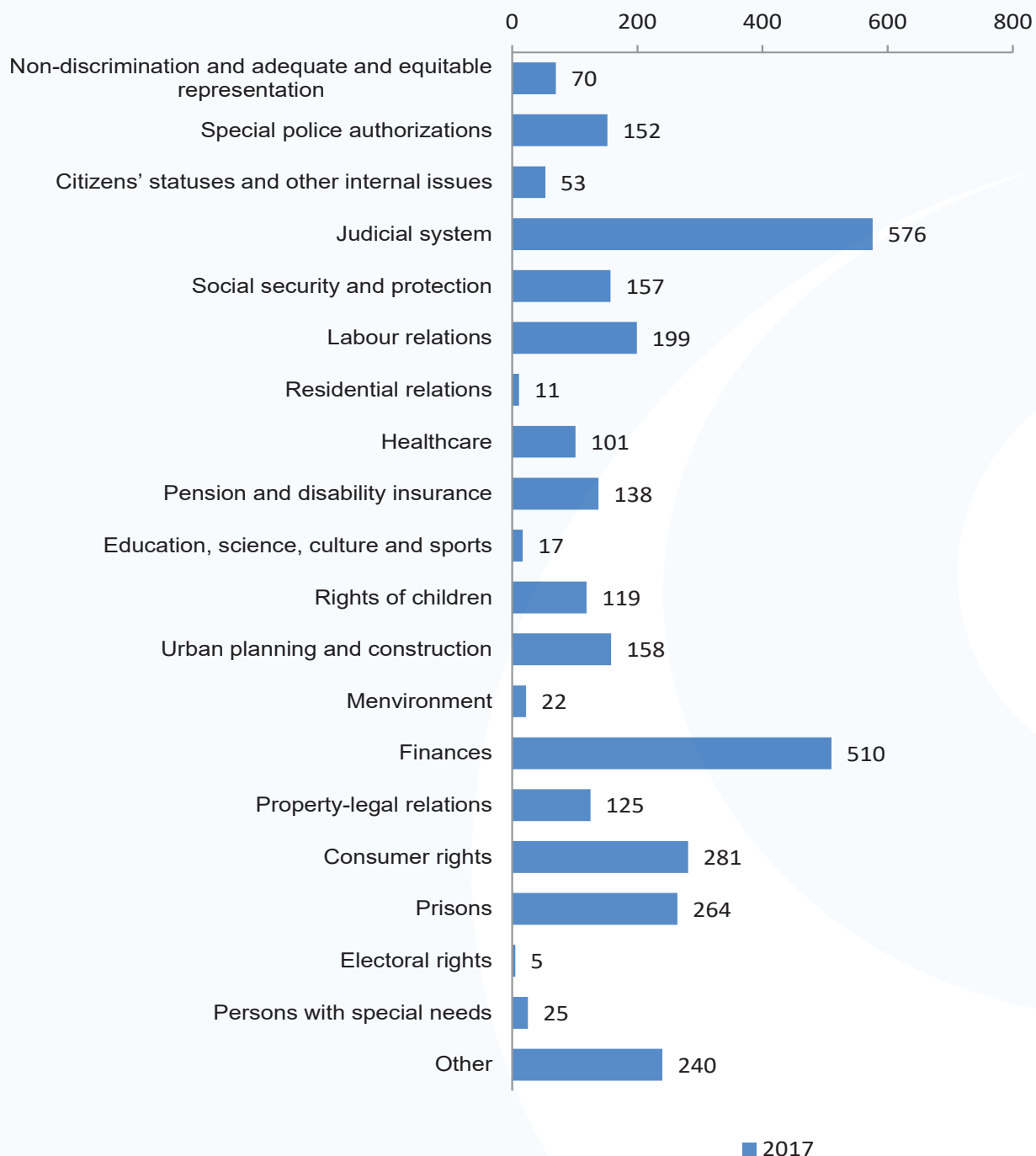
Most of the complaints referred to the: judiciary 576 or 17,81%; finances and financial operation 510 or 21,87%; consumers' rights (utilities and other compensations) 281 or 12,05%, from the penitentiary/ educational and correctional facilities 264 or 11,32%; labor relations 155 or 6,65%; urbanism and construction 158 or 6,78%; social protection 157, i.e. 6,73%; protection of the rights within the police authorizations 152 or 6,52%; pension and disability insurance 138 or 5,92%; property and legal area 125 or 5,36%; protection of the rights of the children 119 or 5,10%; healthcare protection 101 or 4,33%; non- discrimination and equal and equitable representation 70 or 3,00%; civil conditions and other internal affairs 53 or 2,27%; voting rights 25 or 1,07%, environment 22 or 0,94%; education, science, culture and sport 17 or 0,73%;

Review no. 4

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2017 ACROSS DOMAINS																		
AREA	Received in 2017	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Number of formed case upon a self-initiative	Manner of closing										Total closed procedures	Pending case
							With decision for termination or non-initiation of procedure	Resolved in another manner	Legal advice	Violations found				Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate		
										Opinion, suggestions and recommendations provided	Acted upon the Ombudsman's intervention	All legal activities taken by the Ombudsman	No activities taken upon the Ombudsman's interventions					
Non-discrimination and adequate and equitable representation	70	89	20	90		1	47		1	31	21	6	4				75	15
Police procedures	152	179	85	237	1	6	109		3	27	15	2	10				130	107
Civil states and other interior affairs	53	53	46	99		1	29			22	16	4	2				49	50
Judiciary	576	580	177	753	2	1	459		1	114	112		2	1			574	179
Social protection	157	155	58	215		3	115			56	46	2	8	1			163	52
Labor relations	199	225	54	253		2	119		13	50	30	6	14	2			168	85
Housing relations	11	11	4	15			13			0							13	2
Health protection	101	98	19	120		3	60		1	35	24	7	4				92	28
Pension and disability insurance	138	137	27	165			92		1	41	33	1	7	1			127	38
Education, science, culture and sport	17	16	10	27		1	6			16	14		2				20	7
Children's rights	119	161	12	131		11	58		7	50	40	8	2	1			113	18
Urban planning and construction	158	173	48	206	2		116		2	26	20	4	2				144	62
Environment	22	25	3	25			18		1	2	1	1					21	4
Finances	510	511	158	668			151		1	470	447	5	18				604	64
Property – legal relations	125	128	34	159	1		89		1	41	32	1	8				124	35
Consumers' rights	281	307	48	329			224	1	2	50	31	4	15				262	67
Penitentiary – correctional and educational – correctional institutions	264	265	53	317	1	18	156		19	55	46	5	4	1			227	90
Persons with special needs	5	4	1	6		1	2		1	2	1	1					5	1
Electoral rights	25	25	26	51			28			11	5	5	1				38	13
Other	240	245	79	319	5	1	167		3	38	36	1	1	3	1		212	107
TOTAL:	3223	3387	962	4185	12	49	2058	1	57	1137	970	63	104	10	1	0	3161	1024

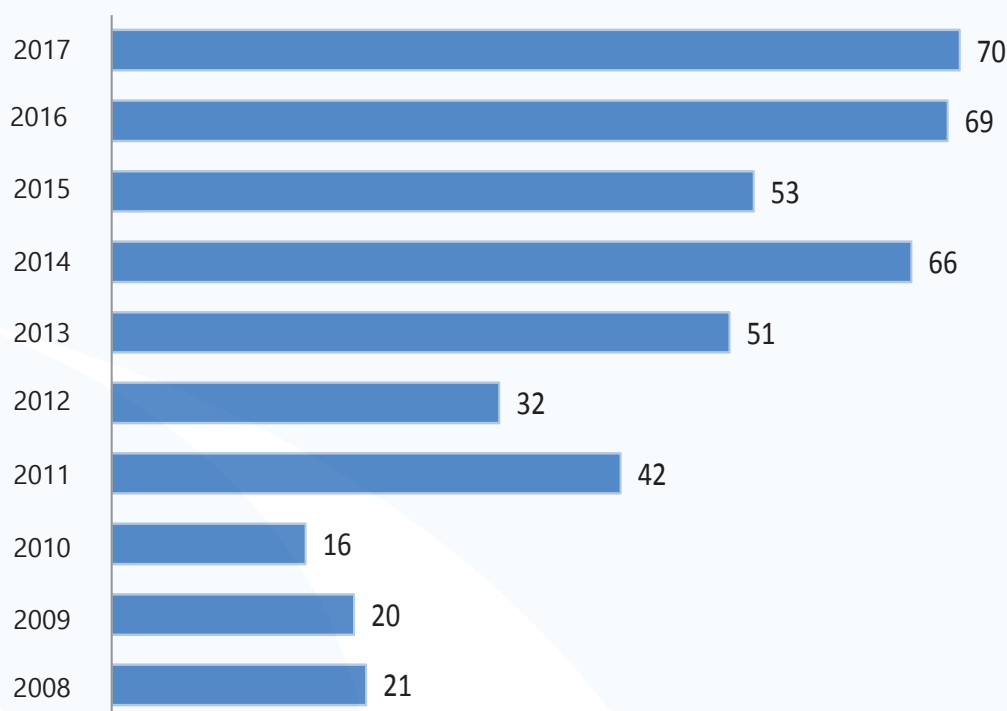
residential affairs 11 or 0,47%; children and persons with special needs 5 or 0,21%; other areas 240 or 10,29% complaints.

Chart no. 2



In the non- discrimination area and equal and equitable representation 70 complaints were received requesting protection against discrimination on all bases. Most of them, 17, referred to harassment on the work place, 9 by nationality and 6 refer to the discrimination by healthcare protection. From a total of 90 complaints acted upon by the Ombudsman (20 were transferred from the previous year in 31 cases violation was determined after which remarks and recommendations were submitted to the competent bodies. The recommendations and remarks of the Ombudsman were accepted in 21 cases, 4 cases are waiting for a response. In 6 cases the Ombudsman terminated the procedure because after the determination of the violation he took all legal action within his competence and the body did not accept the remark/recommendation and did not admit discrimination due to which the citizens were referred to seek protection by other means.

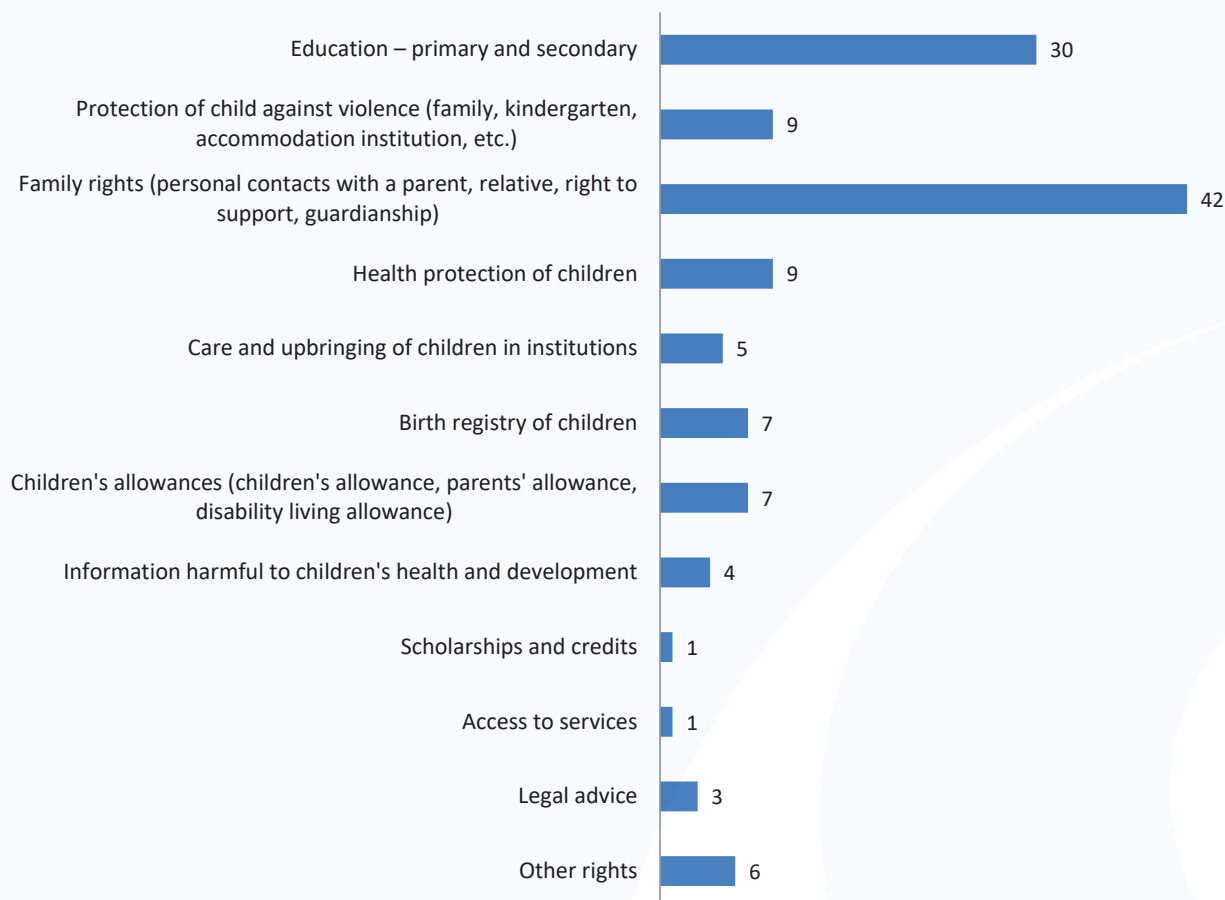
Chart no. 3



Regarding the complaints in the area of the rights of the children and persons with special needs, a total number of 124 complaints, 42 or 33,87% refer to the rights of the child within the family, i.e. the realization of the personal and direct contacts with the parent the child does not reside with, 30 complaints or 24, 19% refer to violation to the right to elementary and secondary education, 9 or 7,26% to the healthcare protection, 9 or 7,26 to the violence against children in the family, kinder garden, school, sheltering facility or another body, 7 5,65% for the children birth records, 5 or 4,03%, rights while sheltering and educating children in a facility, the same number 4 or 3,23% complaints for information harmful for the development of the children, 1 or 0,81% or violation of rights regarding scholarships and loans 6 or 4,84% for violation of other rights of the children, 1 or 0,81% complaints refer to access to services, 3 complaints or 1,61% were resolved with a legal counsel on the protection of the rights of the children.

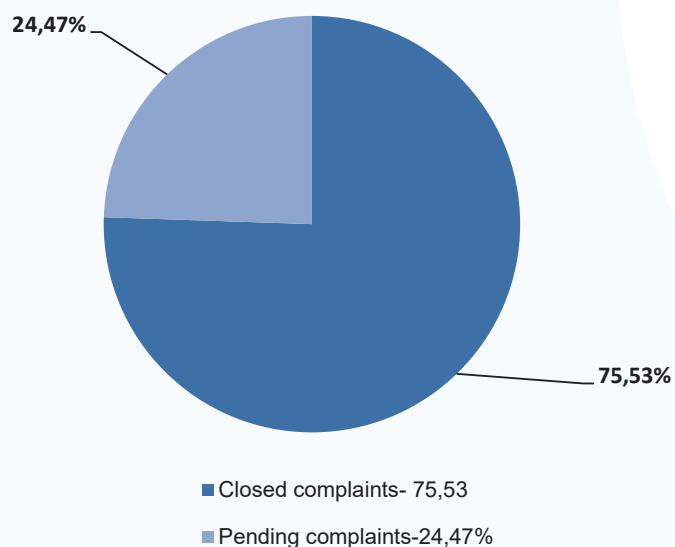
The Ombudsman has noticed that no progress has been made regarding the realization and protection of the rights of the children/ persons with disabilities in all of the areas, especially in the education where no efficient and real inclusion is being done neither in the primary nor in the secondary education. The institutional form of sheltering of the children without parents and parental care does not provide full and proper protection nor make the child feel and grow as the children in a family. There is still no efficient solution on the approach to the rights and efficient protection for the children under constant risk from any aspect, and for the children using drugs and other psychotropic substances the state has not established a system for early detection and prevention, protocols for proper treatment nor a special medical center for treatment of children using drugs.

Chart no. 4



ACTION

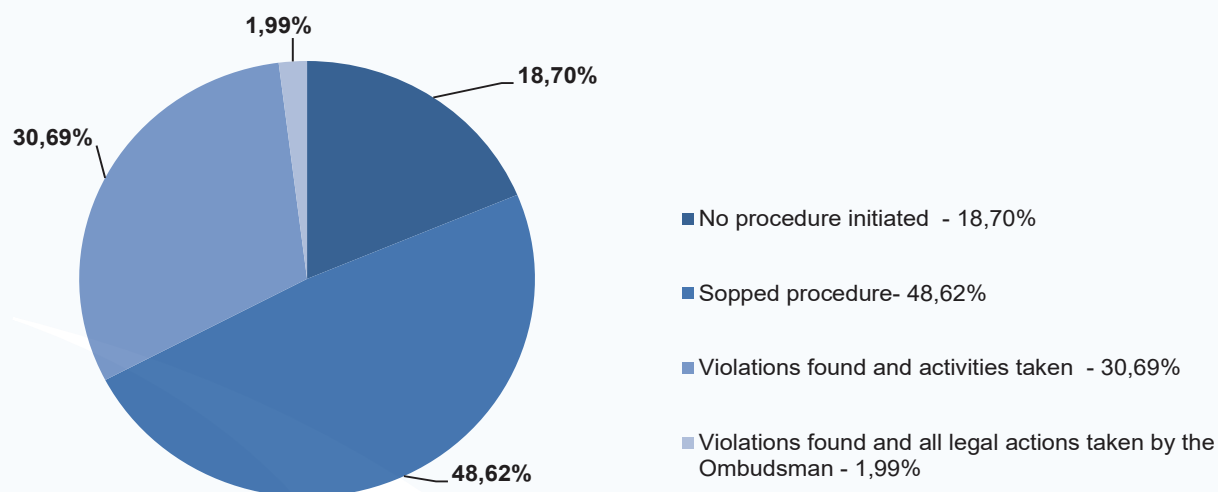
Figure no. 2



From a total number of 4.185 complaints acted upon in 2017, the procedure has finished for 3.161 or in 75,53% of the cases, while the procedure for 1024 complaints or 24,47% is still underway. (Figure no.2)

From the 3.161 finished, in 970 cases or 30, 69% the Ombudsman concluded violation of the human rights and freedoms and intervened in order to remove the violations i.e. to realize the rights of the citizens- complainants and his interventions were accepted. In 63 or 1,99% of the cases, the Ombudsman determined violations and took all legal action, in 591 of the cases or 18,70% no procedure has been initiated and for 1.537 cases or in 48,62% of the cases the procedure has been terminated. (Figure no.3)

Figure no.3



The data that show that this year the number of complaints for which no procedure has been initiated is even bigger, confirming the conclusion that the human rights and freedoms need to be promoted and the citizens need to familiarize with the Ombudsman Institution in order to become more informed on their rights and the Ombudsman's competences.

From 591 complaints, no procedure has been initiated upon, in 236 or 39,93% cases the Ombudsman is not competent to take action, and in 180 or 30,46% cases it is not a case of violation of the constitutional and legal rights. Furthermore, in 53 or 8,97% cases the complaint was not complete, and the complainant did not enclose the complaint, in 31 or 5,25% cases a court procedure was underway, in 12 cases or 2,03% 1 year has passed since the action or decision, 8 cases or 1,35% are less significant cases and no conclusive results can be given after the completion of the examination, 12 or 2,03% cases were anonymous, and 1 or 0,17% has been resolved in another manner.

The Ombudsman in 57 cases or 9,46% by question based by the citizens, and by legal regulation analysis, provided the citizens with legal advice, gave them directions to solve their problems and realize their rights. (Figure no.4)

Figure no.4

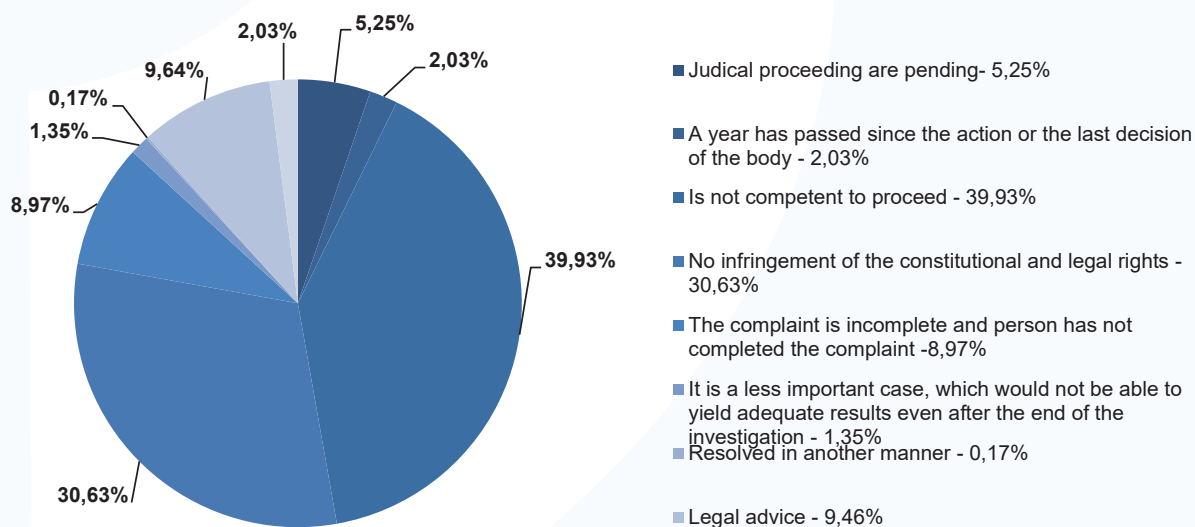
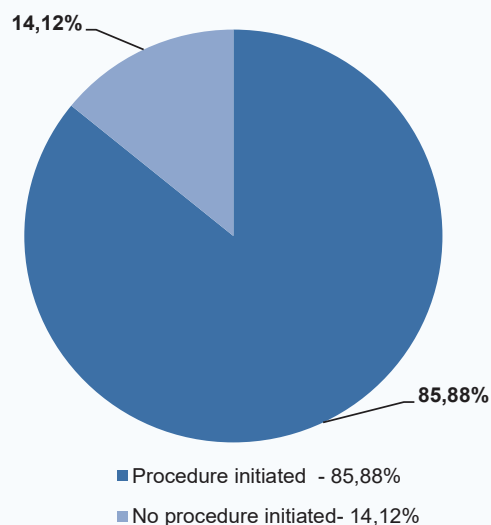


Figure no.5



In 2017 from a total of 4.185 complaints the Ombudsman initiated a procedure, upon 3.594 or 85,88% complaints and upon 591 complaints 14,12% did not initiate a procedure. (Figure 5)

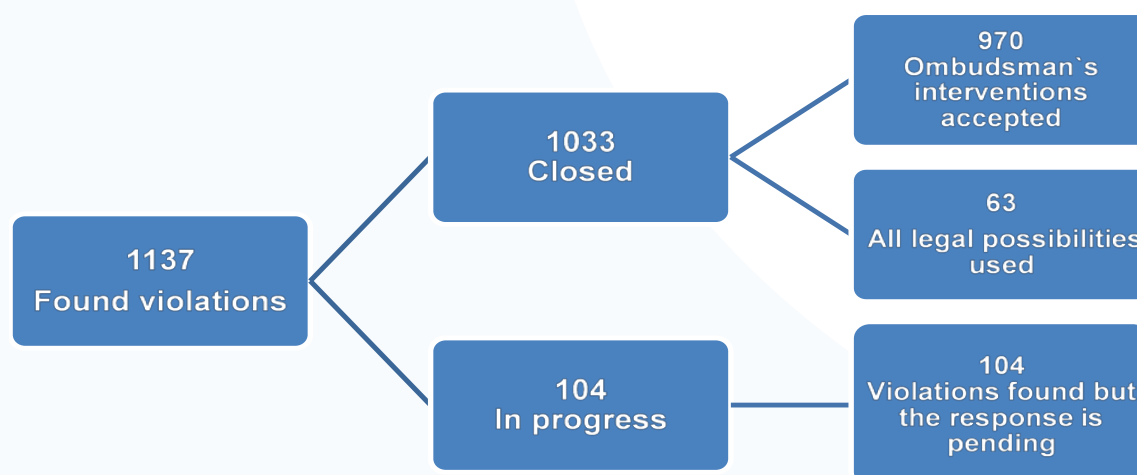
From a total of 3.594 complaints the Ombudsman initiated a procedure upon, in 2.570 or 71,51% the procedures finished, and for 1024 complaints or 28,49% cases the procedure is still underway.

VIOLATIONS ESTABLISHED AND MEASURES UNDERTAKEN

From a total number of 3.594 cases the Ombudsman acted upon, in 1.137 or 31.64% violation of the human rights and freedoms were detected. In 970 cases (85,31%) the state administration bodies and other bodies and organizations with public authorizations accepted the interventions of the Ombudsman, for 104 cases (9,15%) the procedure is still underway, and in 63 cases (5,54%) (after the detected violation a recommendation has been submitted which was not accepted, other actions were taken as information and special reports) the Ombudsman exhausted all legal possibilities.

Compared to 2016 when the Ombudsman from a total of 4055 cases upon which he acted 1.523 or 37.56% of the cases detected a violation, in 2017 from a total number of 3.594 cases upon which he acted in 1.137 or 31,64% there was a violation of the human rights and freedoms meaning that the number of determined violations has decreased.

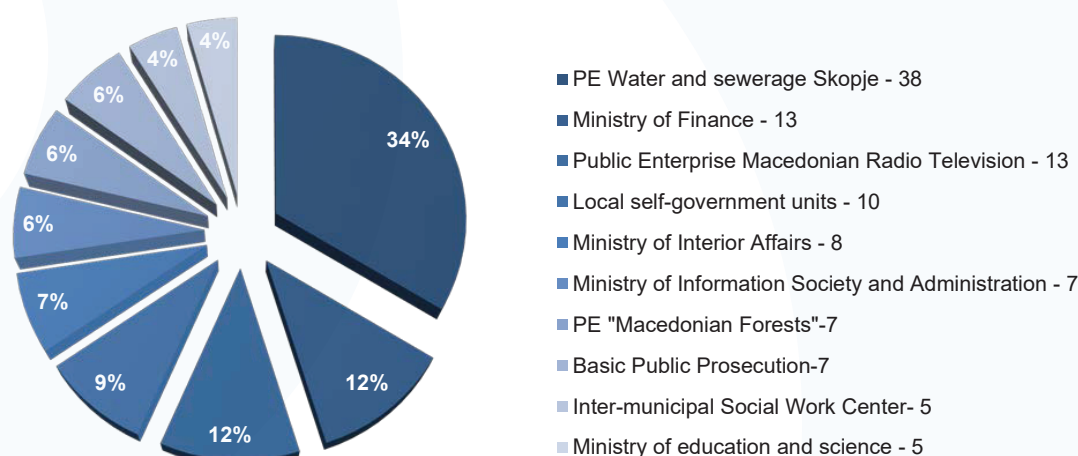
This reporting period as the Ombudsman noted a condition of increase of accepted separate recommendations for elimination of violations of rights by the state administration bodies and other bodies and organizations with public authorizations, but the notion that there is insufficient action upon the recommendations on detected weaknesses still remains. Regarding the general conditions for which separate reports have been made as well as information from visits and researches.



This reporting year as well, most of the concluded violations covered the area of finances and financial operations 470 or 41,34%, 447 of which or 95,11% received action upon the recommendations of the Ombudsman. In the judiciary area there were 114 case or 10,03% from which in 112 or 98,25% the Ombudsman's interventions were accepted. In the complaints for violation of the rights in the social protection area there were 56 cases or 4,93%, and in 46 or 82,14% the Ombudsman's recommendations were accepted. In the complaints regarding the penitentiary and correctional and educational and correctional there have been violations in 55 cases or 4,84%, and in 46 or 83,64% the Ombudsman's interventions were accepted. In the labor relations complaints there have been violations in 50 cases or 4,40%, and in 30 or 60,00% the Ombudsman's interventions were accepted. In the consumer's rights complaints there have been violations established in 50 cases or 4,40%, and in 31 or 60,00% the Ombudsman's interventions were accepted. In the complaints for protection of the rights of the children, there have been violations in 50 cases or 4,40%, and in 40 or 80,00% the Ombudsman's interventions were accepted, then the complaints in the property and legal relations area, pension and disability insurance, healthcare protection etc.

Despite of the legal obligation to cooperate with the Ombudsman, some of the institutions such as: PE "Sewerage and Water Supply", the Ministry of Finance, the Macedonian Radio Television, the local self-government units, the Ministry of Interior, the Ministry of Labor and Social Policy, the PE "Macedonian Forests" did not fully follow the remarks, suggestions, recommendations, opinions and other interventions.

Figure no.6



The Ombudsman, due to the obstruction in the work, in the direction of ensuring respect, realization and protection of the constitutional and legal rights of the citizens, criticizes these bodies in accordance with the Law on the Ombudsman.

MEASURES FOR IMPLEMENTATION OF THE RECOMMENDATIONS OF THE OMBUDSMAN



MEASURES FOR IMPLEMENTATION OF THE RECOMMENDATIONS TO OVERCOME THE CONDITIONS ESTABLISHED IN THE REPORT OF THE OMBUDSMAN FOR 2016 AND THEIR MONITORING

With the amendments of the Law on Ombudsman adopted in 2016, for the first time it was determined that the Assembly of the RM, after reviewing the reports, of the Ombudsman, would determine measures for the implementation of the general recommendations contained in them. Therefore, after reviewing the Annual Report of the Ombudsman on the degree of respect, upgrade and protection of the human rights and freedoms for 2016, on 8th of November the Assembly determined measures for the implementation of 75 recommendations in 19 areas to overcome the concluded conditions contained in the Report of the Ombudsman.

According to Article 36 paragraph 4 from the law, the RM Government informs the Assembly on the implementation of the recommendations of the Ombudsman each six months.

In that context, in the period until the preparation of the Annual Report for 2017, the Ombudsman has been informed that the following institutions: Ministry of Education and Science, Ministry of Health, Ministry of finance, Ministry of Interior and the Ministry for Justice delivered the Report regarding the implementation of the recommendation for the overcoming the condition determined.

In the **police authorizations area** the Assembly concluded the following measures:

1. Enhancement of the external control over the operation of the Ministry of Interior and the Public Prosecution by establishment of an external control mechanism within the Ombudsman and the civil sector;
2. Enhancement of the internal control in the police with professionalism and independence and objective implementation of full and quality investigations for which there are indications for violation of the human rights and freedoms;
3. Commencement of the application of the Law on Criminal Procedure regarding the establishment of the registry of persons deprived of freedom which would be examined by the Ombudsman when needed;
4. Reexamination of the possibility to improve the conditions in the admittance centers for foreign citizens meeting the international standards for detention of foreign citizens;
5. Amendments of the Law on Police according to the Opinion of the Ombudsman for deletion of "the rubber bullets" category.

In the **civil conditions and other internal affairs area** the Assembly concluded the following measures:

1. Measures taken by the citizenship body to apply properly the European Convention for Citizenship and enhance the coordination within the Ministry of Interior;
2. Explanation to the decisions for rejection of citizenship and elaboration of the reasons due to efficient further protection of the citizens as well as provision records and list of persons without citizenship in order to know their number.

In the **judiciary area**, the RM Assembly concluded the following measures:

1. The Government ordered the state administration bodies to elevate the level of communication with the constitutional judiciary;
2. Reexamination of the legal solution from Article 42-a paragraph 2 from the Law on Administrative Disputes, according to which against the decision of the Administrative Court, the body whose act was subject to administrative court to be able to complaint through the Ombudsman;
3. Reexamination of the condition with the delay of the procedures acted upon by the PP, the reasons for the lack of decisions as well as the determined inefficient investigations for the cases against police officers;
4. In the procedures for enforcement to cease applying the measures for forcible collection of the debt by blocking the accounts until the enforcement agent receives information on the grounds of the income of the debtors;
5. Amendments of the Law on Enforcement due to provision of better protection of the debtors, i.e. limitation of the amount of the legal penalty interest that the debt pays, and elimination of the tariffs for the enforcement agents;
6. Amendment of the Law on Agriculture and Rural Development due to provision of legal protection of the farmers through precision of the rights and obligations of the farmers and purchasers;
7. Amendments in the Law on free legal aid and the Law on Public Notary in order to provide the citizens facilitated access to the realization of their rights.

In the **electoral rights area** the following measures were concluded:

1. Reexamination of the legal frame in order to provide mechanisms and create conditions for the state Electoral Commission to be able to provide all data needed for an updated and accurate Electoral List;
2. Finding adequate solutions and provision of conditions for the prisoners and the persons in rest homes and similar facilities, elderly care homes or undergoing a long term medical treatment at a hospital to be able to realize their voting right at their current location and create conditions for the persons with disabilities to realize their voting right;
3. Creation of normative and other assumptions in order to prevent the institutions and their resources to be used for political purposes during and before the electoral process.

In the **refugee/migrant rights area** the following measures have been concluded:

1. The RM Government to review the possibility for the Law on Temporary Protection and Asylum to be amended and aligned with the international documents;

In the **penitentiary/educational and correctional facilities** the following measures have been concluded:

1. To urgently amend the Law on Execution of Sanctions returning the healthcare within the competence of the Administration for Execution of Sanctions and will provide efficient and proper approach to the healthcare services;
2. Taking measures to create basic conditions and resources (staff, material, financial) to provide the right to healthcare insurance and healthcare protection of the persons in the penitentiary and correctional facilities according to the international and domestic standards;
3. Until the amendments of the Law on Execution of Sanctions are adopted the ministry

of health should take measures to implement the Law on Execution of Sanctions to establish a proper healthcare protection system in the penitentiary and correctional and educational and correctional facilities as well as measures to improve the conditions and equipment in the prison medical offices;

4. In the penitentiary and correctional and educational and correctional facilities the mandatory elementary and secondary education should be implemented and realized as part of the general education system and use comparative experiences and positive practices from other countries;
5. Regular implementation of proper trainings and examination of knowledge and skills of the prison staff and the professional persons should mandatorily prepare programs for individual and group treatment for the more successful realization and social adaptation of the persons enduring imprisonment;
6. In the penitentiary and correctional facilities there should be a room adapted for the realization of the right to personal relations and contacts between the child and parent (convict) according to the best interest of the child and the right to maintain contact with the parent it does not reside with.

In the **social security area** the following measures have been concluded:

1. In the RM Budget there should be funds needed for the timely and smooth realization of the rights from the social protection area for the citizens at risk as well as regular payment of the compensation from the social protection. In this context the possibility for increasing of the amount of the financial funds for social protection should be reviewed;
2. The RM Government should prepare amendments to the Law on Social Protection to provide social protection and safety to each citizen who needs it and consider the constitutional principle for social equity. In that context, at a session of the Government the Initiative of the Ombudsman should be reviewed to abolish paragraph 4 of Article 213 of the Law on social Protection and intervene properly in line with the law amendments;
3. Reviewing of the possibility to provide proper accommodation capacities (facilities) for the homeless persons in Skopje and other towns in the RM according to the needs and number of the homeless persons. The problem should permanently resolved for the vulnerable categories of citizens by finding new manners for that purpose.

In the **pension and disability insurance area** the following measures have been concluded:

1. The RM Government, according the remarks of the Ombudsman to prepare modification of the legal regulation regulating the issue of voluntary capital financed pension insurance to delete the category of insured persons from the register of the Second Pension Pillar who at the moment of inclusion were at an age unfavorable for their membership and aware damaged and receive or will receive a smaller pension amount due to that;
2. The State Commission for Decisions in Administrative Procedure and Labor Relations Procedure in a secondary degree to decide in a more effective manner for the legal remedies of the citizens and implement the legal provision for meritory decision making for cases for complaint against a decision that was once annulled and returned to be decide again.

In the **healthcare protection area** the following measures have been concluded:

1. The Ministry of Health, the Health Insurance Fund of the RM and the regional Fund services should hold regular meetings and inform on the current affairs and receive

- guidelines for efficient and timely decision making for the civil rights thus eliminating the current practice of long procedures overstepping the legally determined dead line;
2. The Government of the RM is obliged to further regulate the project "My appointment" in order to make it suitable for the needs of the citizens for efficient, regular and timely healthcare protection.
 3. The Government should urgently find a solution for the provision of a gynecological facility in the municipality of Suto Orizari through engagement of a specialist gynecologist within the Healthcare Facility in the municipality. Also, due to greater safety of the citizens and prevention of the practice to charge services that are otherwise free, the competent bodies should practice frequent and unannounced controls over the private gynecological facilities.

In the **area of the rights of the children** the following measures have been concluded:

1. The RM Government should analyse the need to open marriage and family counselings and according to the results to open such counselings with the help and support of the competent bodies and the local self-government;
2. An active monitoring system should be established by the social services to oversee the condition of the child in a family and at risk in cooperation with the educational, healthcare and local bodies;
3. To review the possibility to implement a new subject to study the human rights and freedoms according to the domestic and international regulation as well as the protection mechanism in all educational degrees;
4. Implementation of a comprehensive analysis to map the territories where there are children on the street and find proper forms (institutional or not) to protect the children. Provision of professional and other types of help and support for the children at risk and their families in order to improve the conditions for living, growing and developing;
5. Initiation of proper legal solutions to include the children at risk in the educational process who due to the age cannot be enrolled in an elementary school nor attend irregular classes for adults. Also, there should be system solution to record the children in the birth records so that they would acquire identity and have access to their rights;
6. Urgent resolution of the problem with the inclusion of the children in the primary education through provision of conditions to attend classes in the elementary schools on the RM territory;
7. The Budget should provide means for regular supply of therapy for children with special needs and dispersion of the therapy through the general doctors or other types of healthcare/ specialist staff in the place of living;
8. In all public institutions there should be spatial and other conditions so that the right to accompany a child at the hospital could be used by each parent/ guardian regardless of the sex;
9. The RM Government according the Special Report of the Ombudsman should take measures for the legal regulation of the right to participation of the child/ student in the education system in the RM creating real possibilities to hear the opinion of the student and provide their participation in the adoption of significant decisions regarding the school life;
10. To harmonize the legal regulation with the Convention for the Rights of the Children and the Convention for the Persons with Disabilities and in that context to define clearly the principle referring to the child's best interests and define the disability as discrimination;
11. In the elementary schools there needs to be proper professional staff to work with the children with special needs at the expense of the body, not the parents.

In the **higher education rights area** the following measures have been concluded:

1. Provision of regular and timely payment of the monetary compensation for the master and doctoral candidates in line with the Law on Scientific and Exploratory Activity;
2. Taking measures to improve the student standards and conditions in the existing student campuses through continuous reconstruction and reviewing the possibility to expand the accommodation capacities of the students.

In the **labor relations area** the following measures have been concluded:

1. To urgently prepare a comprehensive and functional analysis of the bodies/ institutions/ administrations/ directorates/ commissions/ regulatory bodies/ public enterprises (especially budget users) etc. to see the justification and need of their existence;
2. Stop the practice of annunciation of group employment adverts and urgently take measures to see the condition and the hold up with the deployment of the elected candidates so that these citizens can realize their labor relations rights;
3. The RM Government should review the initiative of the Ombudsman to amend the Law on Labor Relations and the Law on Healthcare Insurance to recognize the right to monetary compensation for temporary prevention to work of the insured persons who have at least 6(six) months healthcare insurance and have been diagnosed with serious diseases. The right to compensation to salary due to temporary impairment of the work ability should be borne by the Healthcare Insurance Fund or the employer but not the employee.

In the **property and legal area** the following measures have been concluded:

1. Simplification of the legal procedure due to fast and efficient realization of the right to privatization and legalization of the construction site and facilities including the persons not entered as users and is clear that they have acquitted it by compensation and freely and own it for decades and constructed buildings on it that were legalized or are under procedure to become legalized.

In the **construction and urbanism area** the following measures have been concluded:

1. Revision of the total legal regulation, especially in the part with which the urban planning and construction as original competence of the local government are taken from the central government.

In the **environmental area** the following measures have been concluded:

1. Realization of the regional management project regarding the waste and initiation of the construction of waste lands according to all ecological standards;
2. Zero tolerance for all industrial capacities as big polluters and they need to meet the envisaged ecological standards for operation;
3. Enhancement of the inspection supervision for the protection of the environment at a local and central level.

In the **finances area** the following measures were concluded:

1. Amendments of the Law on Taxation and the Law on Property taxes according to the Ombudsman's initiative to protect the dignity of the tax payers and their families as well as conditions making the enforcement more favorable for the debtor;

2. The Macedonian Radio Television management should adopt a decision to remove the groundlessly recorder debt for broadcasting fee;
3. Overview of the operation of the Public Revenue Office in the cases for examination of the property and property condition and obligation with the personal tax based on unrecorded and untaxed revenues.

In the **consumers' rights area** the following measures have been concluded:

1. Reexamination of the existing legal framework of big discretion authorizations of the regulatory bodies in determined segments from their operation;
2. Reexamination whether the justification of the delay of the full liberalization of the market of electricity is harmful for the citizens and whether the prices determined by the regulatory commission for energy are real according the needs of the state and companies and the methodologies upon which they have been determined;
3. The manner and procedure and conditions for subventioning the electrical energy should be prescribed for the vulnerable category citizens as well as criteria for the acquiry of the status of protected consumers from the household category to a member of which due to the healthcare condition their life would be endangered due to the re-voking of electricity supply;
4. Organization of supervision debates to review the reasons due to which the decisions have been adopted to the regulatory bodies that have a commitment character and to determine whether they are clear, precise, objective and prepared by competent persons and adopt guidelines to overcome the weaknesses do that the citizens can realize their rights and interests;
5. Preparation and adoption of acts regulating the procedure for submission of objections of the consumers on the amount of the monthly invoices and an independent body that would provide objectivity in the action and decision making. EVN by a general act should regulate the issue of settlement of the late debt according to the business policy;
6. Proper resolution of the problem with the compensation for engaged power (fixed part) from the heat energy compensation;
7. The Government and other competent bodies should revise the total operation of the PE "Sewerage and Water Supply"- Skopje, according to the findings of the Ombudsman for the illegal operation and issuance of irregular invoices and the selective elimination of a debt.

In the **non-discrimination area** the following measures have been concluded:

1. Prepare a new Law on Prevention of Protection against Discrimination for quality and efficient prevention and protection against discrimination on any grounds;
2. According to the constitution of the Ombudsman for the actions of the state Labor Inspectorate during the implementation of the Law on Protection against Harassment on the Work Post, with legal amendments the actions of the state Labor Inspectorate should be regulated and sanctions should be initiated;
3. For the diligent respect of the non- discrimination principle and equality before the law, all inspectorates should have defined competence in a manner that each of them will act to prevent, control and sanction actions interfering with the realization of the rights and violating the equality principle.

In the **other rights area** the following measures have been concluded:

1. Implementation of the unique European number for emergency calls E112, an obligation that the RM took in 2005 according to the Law on Crisis Management;

2. The RM Government should provide more funding for the subjects in the crisis management system because it is often the case that due to lack of funds this institutions during crisis cannot perform their duties timely and well.

Organizing supervisory debates

1. The local assembly commissions and bodies, according the Law and Rules of Procedure of the Assembly, each for each area to organize supervisory debates on the conditions presented in the Annual Report on the degree of respect, upgrade and protection of the human rights and freedoms for 2017;
2. The RM Government is obliged to, after six months, inform the RM Assembly on the implementation of the determined measures for the implementation of the recommendations of the Ombudsman.

ABOUT THE INSTITUTION

The image is a full-page abstract graphic. It features a solid blue horizontal band across the upper third, containing the text 'ABOUT THE INSTITUTION' in white, bold, sans-serif capital letters. Above and below this band are thin white horizontal lines. The background is a light blue gradient with large, soft, white curved shapes. On the right side, there is a large, semi-transparent circular graphic filled with a pattern of small, multi-colored squares (blue, green, purple, pink, and red) that appear to be floating or radiating outwards.

ORGANIZATION AND MANNER OF OPERATION

The Ombudsman, according to the constitutional setting and legally determined term of office is an independent body of the Republic protecting the legal and constitutional rights of the citizens, promotes the rights and acts as a National Prevention Mechanism the main objective of which is to prevent torture and other kinds of cruel inhuman and derogatory actions and punishments.

The affairs from his competence the Ombudsman performs based on and within the Constitution, law and international agreements ratified according the Constitution, in the headquarters in Skopje and regional offices in Bitola, Kicevo, Strumica, Kumanovo, Tetovo and Stip.

The amendments of the Law on Ombudsman adopted in 2016 for the enhancement and expansion of the competence, functioning and independence of the institution and provision of full integrity in the performance of the functions. These amendments started to apply in March 2017 including new possibilities for the Ombudsman in the promotion of the human rights in the monitoring of the conditions and their respect and in the pointing to the need of their protection. He also became competent to act as a friend of the court entitled to participate in all procedure stages. These amendments included modification in the manner in which the Assembly will elect the Ombudsman in the future as well as his deputies by providing pluralistic approach to the election and transparency in the procedure.

The Ombudsman took action to implement these legal provisions and align the general acts for the organization of the operation and systematization of the work posts in the professional service, the National Prevention Mechanism Team, the separate departments, the job description, the total number of employees and conditions for each work post. For all of them consent from the RM Assembly has been obtained.

The law still does not contain a solution for the proper regulation of the status of the employees with the Ombudsman. Namely, normative assumptions for independence of the professional service, the NPM team, i.e. their separation from the state administration have not been provided. Enclosed to this are also the Paris Principles according to which the institution should have a flexible infrastructure proper for the performance of the activities, supported by proper funding which would not only be formally, but really independent and not subject to restrictions and influence in financial or any other sense.

STAFF

According to the Systematization of work posts, the Ombudsman Institution should have 117 persons.

The professional service of the Institution is composed of the secretary general, ten departments and three sectors. At the moment at the Institution there are 64 work posts filled. During the reporting year, the Ombudsman received a consent from the Ministry of Finance to fill the vacant work posts but the employment were not realized due to objective reasons and it shall take place in 2018.

Namely, during the reporting period the employments were not realized because according to Articles 43 and 44-a from the Law on Ombudsman as well as Article 18 paragraph 2 from the Law on Administrative Officers, the Ombudsman is to implement an employment procedure for the first time by himself and needs to provide support from the Administration agency. Because

such procedure is to be initially conducted, the Ombudsman aligns with the Administration agency as well as the Ministry of Information Society and Administration and the Ministry of Finance.

Considering that the needed finances for this purpose have been provided with the Budget, the Ombudsman plans by the end of 2018 to realize the planned employments in all departments and will finally have the necessary staff.

Qualification, gender and ethnic structure of the employees:

	LEVEL OF EDUCATION										Вкупно
	Employees by gender		Higher education		Post-secondary education		Secondary education		Primary education		
	M	F	M	F	M	F	M	F	M	F	
Managerial job positions	11	12	11	12							23
Non-managerial job positions	13	28	6	18			7	10			41
Total:	24	40	17	30			7	10			64

	COMMUNITY AFFILIATION								total employees
	Macedonian	Albanians	Turks	Roma	Serbians	Vlachs	Bosniaks	Other	
Managerial job positions	16	4			1	1	1		23
Non-managerial job positions	11	22	1	2	2	1	2		41
Total:	27	26	1	2	3	2	3		64

FINANCIAL MEANS

For 2017 the Budget granted for the Ombudsman was **74.540.000,00 MKD**, and the balance mildly increased it and the 2017 Budget was **75.240.000,00 MKD**, **74.717.000,00 MKD** of which for the Ombudsman and **523.000,00 MKD** for the NPM.

After the Budget balance and one repurposing of the means, in percentage, the budget realization progressed as follows:

- **64%** from the Ombudsman budget for basic salaries and contributions and insurance,
- **30%** - for utilities, reparations, materials, maintenance, contracting services and other expenditures
- **6%** - for capital expenditures.

The Ombudsman budget for 2017 has been realized in 87%, which is mostly due to the lack of fulfilment of the vacant work posts, which is a long term problem in the institution, explained among other things, in the Annual Reports for seven years now.

In 2017 by the Ministry of Finance the Ombudsman received consent for the employments, but they were not realized due to procedural reasons.

Aside to the unrealized budget from the item- salaries, due to lack of work posts filled and vacant ones, the final percentage of realized budget also affected the difficult use of the budget for the previous year due to the local elections. More precisely, according to the legal prescriptions in the period after the announcement of the Decision for elections until their termination, the financial plans, the public procurement plans cannot be altered before the elections. In this manner the budget could not be adapted to the needs of the Institution for half year.

The NPM sub program located the entire budget for 2017 for the goods and services group. The NPM budget as an independent program was realized in 87%.

The NPM, unfortunately, this reporting year continued to realize his term of office and competences with donations from an international organization, the High Commissariat for Refugees UNHCR, more precisely with the financial support for temporarily engaged persons.

This part is at the moment administered by a state councilor deployed to other assignments until the systematized vacant posts from 2013 and 2015.

The fact that during the preparation of the draft budget for 2018, for the first time there was understanding and approval for the requested funding for the following 2018 is salute worthy for 2017. The Institution obtained a budget increased for 4.2% compared to 2017. The salary item has been increased and supported with approved consents for employment in 2018 which promises full staff of the institution and full practice of all new competences received with the amendments of the Law.

Sub-items	Description	NP budget 2017	NPM budget 2017	NP realization 2017	NPM realization 2017	remaining	% NP	% NPM
401	Basic salaries	35.910.000,00		30.240.940,00		5.669.060,0	84,21	
402	Contributions for social insurance	12.615.000,00		11.184.971,00		1.430.029,0	88,66	
40	Salaries and supplements	48.525.000,00		41.425.911,00		7.099.089,0	85,37	
420	Travel and daily allowances	750.000,0	40.000,0	492.465,0	40.000	257.535,0	65,66	100
421	Public utility services	4.589.000,0	40.000,0	3.870.513,0	40.000	718.487,0	84,34	100
423	Materials and tools	882.000,0	28.000,0	555.470,0	25.293	329.237,0	62,98	90,33
424	Repair and current maintenance	1.450.000,0		1.094.293,0		355.707,0	75,47	
425	Contracted services	13.500.000,0	400.000,0	12.852.508,0	333.577	713.915,0	95,2	83,39
426	Other operational expenses	700.000,0	15.000,0	657.697,0	15.000	42.303,0	93,96	100
42	Good and services	21.871.000,0	523.000,0	19.522.946,0	453.870	2.417.184,0	89,26	86,78
464	Various transfers	100.000,0		75.594,0		24.406,0	75,59	
46	Total transfers	100.000,0		75.594,0		24.406,0	75,59	
480	Payments after executed documents	1.238.000,0		1.093.667,0		144.333,0	88,34	
485	Investment and non-financial assets	983.000,0		925.365,0		57.635,0	94,14	
486	Buying vehicles	2.000.000,0		1.998.920,0		1.080,0	99,95	
48	Total capital expenditures	4.221.000,0	0,0	4.017.952,0	0,0	203.048,0	95,19	
	TOTAL	74.717.000,0	523.000,0	65.042.403,0	453.870	9.743.727,0	87,05	86,78
	TOTAL	75.240.000,0		65.496.273,0			87,5	

A large, stylized graphic of the flag of the Republic of Macedonia, featuring a golden sun with eight rays and a central star, set against a light blue background. The graphic is positioned on the right side of the page, partially overlapping the text area.

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